United Nations

Report of the Committee on the Elimination of Racial Discrimination

Fifty-sixth session (6-24 March 2000)
Fifty-seventh session (31 July-25 August 2000)

General Assembly

Official Records
Fifty-fifth Session
Supplement No. 18 (A/55/18)

General Assembly
Official Records
Fifty-fifth Session
Supplement No. 18 (A/55/18)

Report of the Committee on the Elimination of Racial Discrimination

Fifty-sixth session (6-24 March 2000)
Fifty-seventh session (31 July-25 August 2000)

United Nations • New York, 2000

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

[17 October 2000]

CONTENTS

Chapter		Paragraphs	Page
Letter of transmittal			8
I.	ORGANIZATIONAL AND RELATED MATTERS	1 - 17	10
A.	States parties to the International Convention on the Elimination of All Forms of Racial Discrimination	1 - 2	10
B.	Sessions and agendas	3 - 4	10
C.	Membership and attendance	5 - 7	10
D.	Officers of the Committee	8	11
E.	Cooperation with the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization	9 - 10	12
F.	Other matters	11 - 16	12
G.	Adoption of the report	17	14
II.	PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES	18 - 22	15
III.	CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION	23 - 453	17
A.	Australia	24 - 43	17
B.	Bahrain	44 - 56	20
C.	Denmark	57 - 71	22
D.	Estonia	72 - 88	24
E.	France	89 - 107	26

CONTENTS (continued)

Chapter		Paragraphs	Page
III. (cont'd)			
F.	Lesotho	108 - 119	28
G.	Malta	120 - 134	29
H.	Rwanda	135 - 158	31
I.	Spain	159 - 174	34
J.	Tonga	175 - 187	37
K.	Zimbabwe	188 - 203	38
L.	Finland	204 - 222	41
M.	Mauritius	223 - 236	43
N.	Slovenia	237 - 251	45
O.	Slovakia	252 - 270	47
P.	Czech Republic	271 - 288	50
Q.	Nepal	289 - 306	52
R.	Netherlands	307 - 325	55
S.	Sweden	326 - 345	57
T.	United Kingdom of Great Britain and Northern Ireland	346 - 372	60
U.	Ghana	373 - 388	64
V.	Holy See	389 - 401	66
W.	Norway	402 - 421	67
X.	Uzbekistan	422 - 441	70
Y.	Thematic discussion on the question of discrimination against Roma	442 - 453	72

CONTENTS (continued)

Chapter		Paragraphs	Page
IV.	CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION	454 - 461	76
V.	CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION	462 - 467	78
VI.	ACTION TAKEN BY THE GENERAL ASSEMBLY AT ITS FIFTY-FOURTH SESSION	468 - 469	80
VII.	SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION	470 - 475	81
	A. Reports received by the Committee	470	81
	B. Reports not yet received by the Committee	471	83
	C. Action taken by the Committee to ensure submission of reports by States parties	472 - 475	96
VIII.	THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION	476 - 479	98
IX.	OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE	480	99

ANNEXES

		Page
I.	Status of the Convention	100
	A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (156), as at 25 August 2000	100

CONTENTS (continued)

ANNEXES (cont'd)

Page

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (30), as at 25 August 2000 105

C. States parties that have accepted the amendments to the Convention adopted at the fourteenth meeting of States parties (27), as at 25 August 2000 106

II. Agendas of the fifty-sixth and fifty-seventh sessions 107

A. Fifty-sixth session 107

B. Fifty-seventh session 108

III. Decision of the Committee on the Elimination of Racial Discrimination under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination 109

A. Fifty-sixth session 109

B. Fifty-seventh session 123

IV. Documents received by the Committee at its fifty-sixth and fifty-seventh sessions in conformity with article 15 of the Convention 151

V. General Recommendations 152

A. General Recommentation XXV on gender-related dimensions of racial discrimination 152

B. General Recommendation XXVI on article 6 of the Convention 153

C. General Recommendation XXVII on Discrimination against Roma 154

VI. Country rapporteurs for reports of States parties considered by the Committee at its fifty-sixth and fifty-seventh sessions 160

VII. List of documents issued for the fifty-sixth and fifty-seventh sessions of the Committee 162

CONTENTS (continued)

ANNEXES (cont'd)

		Page
VIII.	List of States parties and international organization which submitted information to the Committee on the Elimination of Racial Discrimination on the question of discrimination against Roma	166
IX.	List of non-governmental organizations which took part in the informal meeting with the Committee on the Elimination of Racial Discrimination on the question of discrimination against Roma	167
X.	Comments of the Government of Australia on the concluding observations adopted by the Committee on the Elimination of Racial Discrimination on the tenth, eleventh and twelfth periodic reports of Australia	168

Letter of transmittal

25 August 2000

Sir,

It is with pleasure that I transmit the annual report of the Committee on the Elimination of Racial Discrimination, the last annual report to be issued before the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance is held in South Africa in September 2001 and the first of the new millennium.

Chapter III, reports on the main activity of the Committee: the examination of the reports and information received from States parties. In an era when the international community has become increasingly aware of the importance of preventing human rights violations, it must be emphasized that regular reporting by States under human rights treaties and the continuing dialogue with monitoring bodies such as the Committee constitute the basis for a highly developed and institutionalized system for prevention.

Consideration of periodic reports from individual States parties in recent years has demonstrated that discrimination against the Roma follows the same pattern in many countries, making it desirable to consider this as a general issue of concern. Accordingly, during its fifty-seventh session the Committee organized a general thematic discussion on the question of discrimination against Roma populations as reflected also in chapter III of the report, which resulted in the adoption of general recommendation XXVII, the text of which appears in annex V.

In addition to the general recommendation on discrimination against Roma, the Committee, at its fifty-sixth session, adopted two general recommendations regarding article 6 of the Convention and gender-related dimensions of racial discrimination, respectively, which are also reproduced in annex V.

The Committee is well aware of the active role it must play in the preparatory process of the World Conference and the Conference itself, as requested by the General Assembly. The Committee's fifty-sixth and fifty-seventh sessions were therefore to a large extent characterized by the Committee's efforts to fulfil its obligations in this respect; this is reflected in chapter VIII of the report. In its contribution to the World Conference, the Committee's emphasis includes the developing of priorities for the five themes of the Conference, the effectiveness of mechanisms and procedures for prevention, and best practices to be promoted in the struggle for the elimination of racial discrimination.

As you will be aware from our previous reports, the Committee reviews implementation of the Convention in States parties whose reports are seriously overdue by five years or more. This procedure is maintained as a method of work, as is the procedure for prevention, early warning and urgent action, a means for the Committee to prevent human rights violations from occurring or further escalating and to monitor more closely emergency situations arising within the jurisdiction of States parties.

Accept, Sir, the assurances of my highest consideration.

(Signed) Michael E. Sherifis
Chairman
Committee on the Elimination
of Racial Discrimination

His Excellency Mr. Kofi Annan
Secretary-General of the United Nations
New York

CHAPTER I. ORGANIZATIONAL AND RELATED MATTERS

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 25 August 2000, the closing date of the fifty-seventh session of the Committee on the Elimination of Racial Discrimination, there were 156 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the fifty-seventh session, 30 of the 156 States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. Lists of States parties to the Convention and of those which have made the declaration under article 14 are contained in annex I to the present report, as is a list of the 27 States parties that have accepted the amendments to the Convention adopted at the Fourteenth Meeting of States Parties, as at 25 August 2000.

B. Sessions and agendas

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 2000. The fifty-sixth (1372nd-1399th meetings) and fifty-seventh (1400th-1437th meetings) sessions were held at the United Nations Office at Geneva from 6 to 24 March and from 31 July to 25 August 2000, respectively.

4. The agendas of the fifty-sixth and fifty-seventh sessions, as adopted by the Committee, are reproduced in annex II.

C. Membership and attendance

5. In accordance with the provisions of article 8 of the Convention, the States parties held their 18th meeting at United Nations Headquarters on 18 January 2000[1] and elected nine members of the Committee from among the candidates nominated to replace those whose term of office was due to expire on 19 January 2000. Furthermore, following the resignation of Mr. Rüdiger Wolfrum in September 1999, Germany nominated Mr. Brun-Otto Bryde as his successor for the remaining of Mr. Wolfrum's term. In accordance with rule 13 of its rules of procedure, the Committee approved the nomination at its fifty-sixth session.

6. The list of members of the Committee for 2000-2001, including those elected or re-elected on 19 January 2000, is as follows:

Name of member	Country of nationality	Term expires on 19 January
Mr. Mahmoud ABOUL-NASR	Egypt	2002
Mr. Michael Parker BANTON	United Kingdom of Great Britain and Northern Ireland	2002
Mr. Marc BOSSUYT*	Belgium	2004
Mr. Brun-Otto BRYDE	Germany	2002
Mr. Ion DIACONU**	Romania	2004
Mr. François Lonsény FALL*	Guinea	2004
Mr. Régis de GOUTTES	France	2002
Ms. Patricia Nozipho JANUARY-BARDILL*	South Africa	2004
Mr. Carlos LECHUGA HEVIA	Cuba	2002
Ms. Gay McDOUGALL	United States of America	2002
Mr. Peter NOBEL	Sweden	2002
Mr. Raghavan Vasudevan PILLAI*	India	2004
Mr. Yuri A. RESHETOV**	Russian Federation	2004
Mr. Agha SHAHI	Pakistan	2002
Mr. Michael E. SHERIFIS	Cyprus	2002
Mr. Luis VALENCIA RODRIGUEZ**	Ecuador	2004
Mr. Mario Jorge YUTZIS**	Argentina	2004
Ms. ZOU Dexi**	China	2004

---

* Elected on 18 January 2000.

** Re-elected on 18 January 2000.

7. All the members of the Committee attended the fifty-sixth and fifty-seventh sessions. Mr. Yutzis attended the first two weeks of the fifty-seventh session and Mr. Banton the last two weeks of the fifty-seventh session.

D. Officers of the Committee

8. At its 1372nd meeting (fifty-sixth session), on 6 March 2000, the Committee elected the following officers for a term of two years (2000-2002), in accordance with article 10, paragraph 2, of the Convention:

Chairman: Mr. Michael E. Sherifis

Vice-Chairmen: Mr. François Lonsény Fall
Mr. Yuri A. Reshetov
Mr. Luis Valencia Rodríquez

Rapporteur: Mr. Michael Parker BANTON

E. Cooperation with the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization

9. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO),[2] both organizations were invited to attend the sessions of the Committee.

10. Reports of the ILO Committee of Experts on the Application of Conventions and Recommendations, submitted to the International Labour Conference, were made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two Committees. The Committee took note with appreciation of the reports of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as other information in the reports relevant to its activities.

F. Other matters

11. At the 1386th meeting (fifty-sixth session), on 24 March 2000, the United Nations High Commissioner for Human Rights addressed the Committee. She informed the Committee about the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. She encouraged the Committee, in particular, to assist the Conference in establishing an inventory of the different forms of racism in society, in drawing the profile of the victims as well as the organizations which incited racial hatred and in assessing the reaction from the public vis-à-vis the activities of such organizations. The emergence of new forms of discrimination, which made it more difficult for the victims to seek redress, was also a question that deserved the Committee's attention. With reference to the Committee's activities in the field of prevention and urgent action, the High Commissioner stressed the importance of improving the capacity of the human rights protection mechanisms to identify potential conflicts and commended the Committee for its activities in that respect (see CERD/C/SR.1386).

12. The High Commissioner for Human Rights also addressed the Committee at its 1404th meeting (fifty-seventh session), on 2 August 2000. She informed the Committee about recent developments regarding the preparatory process of the World Conference and thanked the members for their contribution to that process. She also informed the Committee about the plans made by her Office to increase the resources for the servicing of the human rights treaty bodies in general and the Committee in particular.

13. At its 1398th meeting, on 24 March 2000, the Committee adopted decision 1 (56), in which it requested again that its fifty-eighth session be held at United Nations Headquarters, in accordance with article 10, paragraph 4, of the Convention.

Decisions regarding organizational matters adopted by the Committee at its fifty-sixth session

Decision 1 (56)

The Committee on the Elimination of Racial Discrimination,

Recalling again that paragraph 4 of article 10 of the International Convention on the Elimination of All Forms of Racial Discrimination stipulates that the sessions of the Committee shall normally be held at United Nations Headquarters,

Reaffirming its decisions 8 (53) and 4 (55), in which it stated, in particular, that some States parties, especially developing countries in Africa, Asia and Latin America, maintain diplomatic missions in New York but not at Geneva, and that some of these States encounter financial and other difficulties in attending the meetings of the Committee when their reports are to be examined at Geneva,

Having examined the statement of the programme budget implications of decision 4 (55) submitted by the Secretary-General (A/54/18/Add.1), and having taken note of the decision of the General Assembly, in the light of that statement, to refer back to the Committee for further consideration its decision 4 (55),

Having taken note of the information provided to the Committee by the representative of the United Nations High Commissioner for Human Rights concerning the availability of conference service facilities for the holding of the fifty-eighth session of the Committee at United Nations Headquarters.

1. Decides to request that its fifty-eighth session be held at United Nations Headquarters from 8 to 26 January 2001, in order to examine with priority the reports of the States parties which encounter difficulties in attending meetings of the Committee in Geneva;

2. Requests the General Assembly to take appropriate measures to implement the present decision.

1398th meeting
24 March 2000

14. At its fifty-seventh session the Committee decided to update document CERD/C/365, containing a compilation of its general recommendations, along the following lines: (a) footnotes would be inserted in some recommendations adopted in early years and no longer relevant for the work of the Committee, making reference if necessary to those adopted subsequently on the same subject; (b) some decisions of particular interest, such as the one on the

sources of information, would be included in the compilation. The Committee also decided to amend document CERD/C/70/Rev.4 (general guidelines regarding the form and content of the reports to be submitted by States parties under article 9, paragraph 1, of the Convention) in order to update the references to general recommendations and to eliminate the request for information on the status of relations between the reporting State and the racist regimes of southern Africa.

15. The extension of the fifty-fifth and fifty-seventh sessions from three to four weeks made it possible for the Committee to consider additional States parties' reports and thereby prevent any accumulation of unconsidered reports. It also made possible the allocation of four meetings for a thematic discussion of racial discrimination against the Roma. The Committee does not request any extension of the fifty-ninth session to be held in August 2001, in view of its request that the fifty-eighth session be held in New York, its request that the fifty-ninth session be held in South Africa, and because the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance will take place immediately after the session. However, the Committee may request that the sixty-first session in 2002 be extended to four weeks in view of the pressure created by the increase in ratifications of the Convention and the consequent increase in the number of reports requiring consideration.

16. Information received by the Committee in recent years has included many accounts of racial discrimination against indigenous peoples. As a result, the Committee in 1997 adopted its general recommendation XXIII and it has continued to discuss relevant issues with States parties' delegations. Grounds for concern are increasing. At the fifty-seventh session some members maintained that discrimination against indigenous peoples (and, in particular, threats to their land rights mentioned in paragraph 5 of general recommendation XXIII) constituted a theme common to situations in many States parties which required consideration as a general issue as well as in the context of particular State reports. The Committee expects to return to this possibility on a future occasion.

G. Adoption of the report

17. At its 1437th meeting, held on 25 August 2000, the Committee adopted its annual report to the General Assembly.

CHAPTER II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

18. The Committee decided at its forty-first session to establish this item as one of its regular and principal agenda items.

19. At its forty-second session (1993), the Committee noted the conclusion adopted by the 4th meeting of persons chairing the human rights treaty bodies that:

> "... the treaty bodies have an important role in seeking to prevent as well as to respond to human rights violations. It is thus appropriate for each treaty body to undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States Parties. Where procedural innovations are required for this purpose, they should be considered as soon as possible." (A/47/628, para. 44)

20. As a result of its discussion of that conclusion of the meeting of chairpersons, the Committee, at its 979th meeting, on 17 March 1993, adopted a working paper to guide it in its future work concerning possible measures to prevent, as well as more effectively respond to, violations of the Convention.[3] The Committee noted in its working paper that efforts to prevent serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination would include the following:

(a) Early-warning measures: these would be aimed at addressing existing problems so as to prevent them from escalating into conflicts and would also include confidence-building measures to identify and support structures to strengthen racial tolerance and solidify peace in order to prevent a relapse into conflict in situations where it has occurred. In that connection, criteria for early warning could include some of the following concerns: the lack of an adequate legislative basis for defining and criminalizing all forms of racial discrimination, as provided for in the Convention; inadequate implementation of enforcement mechanisms, including the lack of recourse procedures; the presence of a pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups or organizations, notably by elected or other officials; a significant pattern of racial discrimination evidenced in social and economic indicators; and significant flows of refugees or displaced persons resulting from a pattern of racial discrimination or encroachment on the lands of minority communities;

(b) Urgent procedures: these would aim at responding to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention. Possible criteria for initiating an urgent procedure could include the presence of a serious, massive or persistent pattern of racial discrimination; or that the situation is serious and there is a risk of further racial discrimination.

21. At its 1028th and 1029th meetings, on 10 March 1994, the Committee considered possible amendments to its rules of procedure which would take into account the working paper it had adopted in 1993 on the prevention of racial discrimination, including early warning and

urgent procedures. During the discussions which followed, the view was expressed that it was too early to make changes in the rules of procedure in order to take account of procedures adopted only very recently. There was a risk that the Committee might be locking itself into rules which would soon no longer fit its needs. It would, therefore, be better for the Committee to have more experience with the procedures in question and to amend its rules at a later point on the basis of that experience. At its 1039th meeting, held on 17 March 1994, the Committee decided to postpone to a later session further consideration of proposals to amend its rules of procedure.

22. No decisions were adopted by the Committee at its fifty-sixth and fifty-seventh sessions within the framework of its prevention activities. At earlier sessions the Committee had considered the situations in the following States parties under this agenda item: Algeria, Australia, Bosnia and Herzegovina, Burundi, Croatia, Cyprus, Democratic Republic of the Congo, Israel, Liberia, Mexico, Papua New Guinea, Russian Federation, Rwanda, Sudan, the former Yugoslav Republic of Macedonia and Yugoslavia. It also adopted a statement on Africa and another one on the human rights of Kurdish people.

CHAPTER III. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

23. At its fifty-sixth and fifty-seventh sessions, the Committee considered reports, comments and information from 24 States parties under article 9 of the Convention. Country rapporteurs are listed in annex VI.

A. Australia

24. The Committee considered the tenth, eleventh and twelfth periodic reports of Australia, submitted as one document (CERD/C/335/Add.2), at its 1393rd, 1394th and 1395th meetings (CERD/C/SR.1393, 1394 and 1395), held on 21 and 22 March 2000. At its 1398th meeting (CERD/C/SR.1398), held on 24 March 2000, it adopted the following concluding observations.

1. Introduction

25. The Committee welcomes the reports submitted by the State party and the additional oral and written information provided by the delegation, while regretting the late submission of the tenth and eleventh periodic reports. Appreciation is expressed for the comprehensiveness of the report and of the oral presentation. The Committee was encouraged by the attendance of a high-ranking delegation and expresses its appreciation for the constructive responses of its members to the questions asked.

26. The Committee acknowledges that the State party has addressed some of the concerns and recommendations of the Committee's concluding observations on the ninth periodic report (A/49/18, paras. 535-551).

2. Positive aspects

27. The Committee is encouraged by the attention given by the State party to its obligations under the Convention and to the work of the Committee.

28. The Committee notes with appreciation the many measures adopted by the State party during the period under review (1992-1998) in the area of racial discrimination, including those adopted to implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody. The Committee welcomes the numerous legislative measures, institutional arrangements, programmes and policies that focus on racial discrimination, as comprehensively detailed in the tenth, eleventh and twelfth reports, including the launching of a "New Agenda for Multicultural Australia" and the implementation of the "Living in Harmony" initiative.

3. Concerns and recommendations

29. The Committee is concerned over the absence from Australian law of any entrenched guarantee against racial discrimination that would override subsequent law of the Commonwealth, states and territories.

30. The Committee reiterates its recommendation that the Commonwealth Government should undertake appropriate measures to ensure the consistent application of the provisions of the Convention, in accordance with article 27 of the Vienna Convention on the Law of Treaties, at all levels of government, including states and territories, and if necessary by calling on its power to override territory laws and using its external affairs power with regard to state laws.

31. The Committee notes that, after its renewed examination in August 1999 of the provisions of the Native Title Act as amended in 1998, the devolution of power to legislate on the "future acts" regime has resulted in the drafting of state and territory legislation to establish detailed "future acts" regimes which contain provisions further reducing the protection of the rights of native title claimants that is available under Commonwealth legislation. Noting that the Commonwealth Senate on 31 August 1999 rejected one such regime, the Committee recommends that similarly close scrutiny continue to be given to any other proposed state and territory legislation to ensure that protection of the rights of indigenous peoples will not be reduced further.

32. Concern is expressed at the unsatisfactory response to decisions 2 (54) (March 1999) and 2 (55) (August 1999) of the Committee and at the continuing risk of further impairment of the rights of Australia's indigenous communities. The Committee reaffirms all aspects of its decisions 2 (54) and 2 (55) and reiterates its recommendation that the State party should ensure effective participation by indigenous communities in decisions affecting their land rights, as required under article 5 (c) of the Convention and General Recommendation XXIII of the Committee, which stresses the importance of securing the "informed consent" of indigenous peoples. The Committee recommends to the State party to provide full information on this issue in the next periodic report.

33. The Committee notes that the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund is conducting an inquiry into "Consistency of the Native Title Amendment Act 1998 with Australia's international obligations under the Convention on the Elimination of All Forms of Racial Discrimination (CERD)". It is hoped that the results will assist the State party to re-evaluate its response to decisions 2 (54) and 2 (55). The Committee requests the State party, in accordance with the provisions of article 9, paragraph 1, of the Convention, to transmit the report of the Joint Parliamentary Committee's inquiry to the Committee when it is tabled.

34. The establishment of the Aboriginal and Torres Strait Islander Commission (ATSIC) and of the Aboriginal and Torres Strait Islander Social Justice Commissioner within the Human Rights and Equal Opportunity Commission (HREOC) were welcomed by the Committee. Concern is expressed that changes introduced and under discussion regarding the functioning of both institutions may have an adverse effect on the carrying out of their functions. The Committee recommends that the State party give careful consideration to the proposed institutional changes, so that these institutions preserve their capacity to address the full range of issues regarding the indigenous community.

35. While acknowledging the significant efforts that have taken place to achieve reconciliation, concern is expressed about the apparent loss of confidence by the indigenous

community in the process of reconciliation. The Committee recommends that the State party take appropriate measures to ensure that the reconciliation process is conducted on the basis of robust engagement and effective leadership, so as to lead to meaningful reconciliation, genuinely embraced by both the indigenous population and the population at large.

36. The Committee notes the conclusions of the "National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families" and acknowledges the measures taken to facilitate family reunion and to improve counselling and family support services for the victims. Concern is expressed that the Commonwealth Government does not support a formal national apology and that it considers inappropriate the provision of monetary compensation for those forcibly and unjustifiably separated from their families, on the grounds that such practices were sanctioned by law at the time and were intended to "assist the people whom they affected". The Committee recommends that the State party consider the need to address appropriately the extraordinary harm inflicted by these racially discriminatory practices.

37. The Committee acknowledges the adoption of the Racial Hatred Act 1995 which has introduced a civil law prohibition of offensive, insulting, humiliating or intimidating behaviour based on race. The Committee recommends that the State party continue making efforts to adopt appropriate legislation with a view to giving full effect to the provisions of, and withdrawing its reservation to, article 4 (a) of the Convention.

38. The Committee notes with grave concern that the rate of incarceration of indigenous people is disproportionately high compared with the general population. Concern is also expressed that the provision of appropriate interpretation services is not always fully guaranteed to indigenous people in the criminal process. The Committee recommends that the State party increase its efforts to seek effective measures to address socio-economic marginalization, the discriminatory approach to law enforcement and the lack of sufficient diversionary programmes.

39. The Committee expresses its concern about the minimum mandatory sentencing schemes with regard to minor property offences enacted in Western Australia, and in particular in the Northern Territory. The mandatory sentencing schemes appear to target offences that are committed disproportionately by indigenous Australians, especially juveniles, leading to a racially discriminatory impact on their rate of incarceration. The Committee seriously questions the compatibility of these laws with the State party's obligations under the Convention and recommends to the State party to review all laws and practices in this field.

40. Taking note of some recent statements from the State party in relation to asylum-seekers, the Committee recommends that the State party implement faithfully the provisions of the 1951 Convention relating to the Status of Refugees, as well as the 1967 Protocol thereto, with a view to continuing its cooperation with the United Nations High Commissioner for Refugees and in accordance with the guidelines in UNHCR's "Handbook on Refugee Determination Procedures".

41. The Committee acknowledges the efforts being made to increase spending on health, housing, employment and education programmes for indigenous Australians. Serious concern remains at the extent of the continuing discrimination faced by indigenous Australians in the enjoyment of their economic, social and cultural rights. The Committee remains seriously

concerned about the extent of the dramatic inequality still experienced by an indigenous population that represents only 2.1 per cent of the total population of a highly developed industrialized State. The Committee recommends that the State party ensure, within the shortest time possible, that sufficient resources are allocated to eradicate these disparities.

42. The Committee recommends that the State party's reports be made widely available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

43. The Committee recommends that the State party's next periodic report, due on 30 October 2000, be an updating report and that it address the points raised in the present observations.

B. Bahrain

44. The Committee considered the initial, second, third, fourth and fifth periodic reports of Bahrain, submitted as one document (CERD/C/353/Add.1/Rev.1), at its 1390th and 1391st meetings (CERD/C/SR.1390 and 1391), held on 20 March 2000. At its 1397th meeting (CERD/C/SR.1397), held on 23 March 2000, it adopted the following concluding observations.

1. Introduction

45. The Committee welcomes the consolidated report, which contained detailed demographic and economic data and information on the legal framework relating to the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. Moreover, the Committee appreciates that the report was prepared in accordance with the Committee's guidelines. The Committee was encouraged by the attendance of a high-ranking delegation and expresses its appreciation for the open and constructive dialogue which took place.

2. Positive aspects

46. The Committee welcomes the fact that the State party has acceded to several international human rights instruments. The Committee further notes with satisfaction that the Convention has been published in the Official Gazette, has the force of law and can be invoked by individuals before the courts.

47. The Committee welcomes the establishment of the Committee for Human Rights and will follow its future work with interest.

48. The Committee notes with satisfaction the State party's ratification on 15 March 2000 of the amendment to article 8, paragraph 6 of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

3. Concerns and recommendations

49. While noting the extensive demographic data provided, the Committee recommends that the State party provide data disaggregated by ethnicity and nationality, given that a significant proportion of the population (38 per cent) and a majority of the working force (63 per cent) are not Bahrainis.

50. While noting the detailed information provided by the State party on constitutional and legislative provisions relating to the implementation of the Convention, the Committee recommends that the State party provide examples of practical implementation of the provisions of the Convention. Guarantees of equality under the Constitution or the absence of judicial rulings applying provisions of the Convention should not be taken to imply that racial discrimination within Bahraini society does not exist.

51. Noting article 172 of the Bahraini Penal Code, article 41 of the Press and Publication Act No. 14 of 1979, and the Social and Cultural Associations and Clubs, Private Institutions and Sports Organizations Act No. 21 of 1989, the Committee is concerned that existing legislation concerning the prohibition of racial discrimination is conditional upon an action being contrary to public peace, order or morality. The Committee emphasizes that not all issues of racial discrimination will necessarily disrupt public order or morality. The Committee encourages the State party to continue its review of legislation and recommends it to implement fully article 4 of the Convention.

52. The Committee expresses its concern at the difficulty, without the aid of information on relevant legislation, of assessing the extent of protection afforded to foreigners, and of enjoyment of the rights and freedoms contained in article 5 of the Convention, as provided for in the Constitution. The Committee recommends that the State party provide information on such relevant legislation in subsequent reports.

53. In the light of the Principles relating to the status of national institutions, approved by the General Assembly in its resolution 48/134, the Committee requests the State party to provide in subsequent reports information on inter alia the responsibilities of the Committee for Human Rights and on its composition, methods and achievements, particularly its achievements in combating racial discrimination.

54. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of making such a declaration be considered.

55. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's observations of the reports be similarly disseminated.

56. The Committee recommends that the State party ensure the timely submission of its sixth periodic report, due on 26 April 2001, and that it be an updating report, addressing the points raised in the present observations.

C. Denmark

57. The Committee considered the fourteenth periodic report of Denmark (CERD/C/362/Add.1) at its 1377th and 1378th meetings on 8 and 9 March 2000 (CERD/C/SR.1377 and 1378) and at its 1397th meeting (CERD/C/SR.1397), on 23 March 2000, adopted the following concluding observations.

1. Introduction

58. The Committee welcomes the detailed report presented by the Government of Denmark, which contains relevant information about changes and developments that have occurred since the consideration of the previous periodic report, including in Greenland. The Committee also welcomes the detailed answers to questions raised and concerns expressed during the consideration of the report. It expresses its appreciation for the frank dialogue with the delegation, which represented a very wide range of ministries, and for the comprehensive and thorough answers given orally to the wide range of questions asked by members.

2. Positive aspects

59. The fact that Denmark submits its periodic reports under the Convention within the established timetable is welcomed.

60. The Committee notes that the State party has enacted the Act on Integration of Aliens (1998), which entered into force on 1 January 1999. The new Act on the Board for Ethnic Equality, enacted in 1997, is welcomed.

61. The Committee notes with interest the establishment in 1999 of a new Committee of Ministers to prepare an inter-ministerial and comprehensive report on existing integration problems and a plan of action to improve the integration of aliens. In this regard, it noted that the report and action plan were launched in February 2000 and contain over 75 concrete initiatives and measures.

62. The Committee notes with satisfaction that, following the case of the Iraqi woman referred to during the oral presentation of the State party's report, the Danish Immigration Service decided to make slight adjustments to its practice by which it assigns refugees to municipalities in Denmark.

3. Concerns and recommendations

63. The Committee notes that the new Act on Integration of Aliens transfers the responsibility for integration from the central to the local authorities. The Committee recommends to the State party to monitor closely the implementation of the new Act with a view to ensuring that the geographical distribution of aliens within the State party is made according to the principle of equity and does not lead to violation of their rights recognized under the Convention.

64. In light of article 4 of the Convention, the Committee is concerned about activities of organizations which promote racial hatred and discrimination. It is especially concerned about the influence of Radio Oasen, owned by a neo-Nazi association, whose licence was renewed in 1997 by the Ministry of Culture and which receives financial support from the Government. The Committee recommends to the State party to declare illegal and prohibit any organization which promotes and incites racial discrimination and calls attention to its General Recommendation No. XV in this regard.

65. With regard to the right to housing, the Committee is concerned that decisions regarding quotas for newly arrived refugees and/or asylum-seekers can be arbitrary in their effects. The Committee recommends to the State party to adopt rules of procedure regarding the right to housing of refugees and/or asylum-seekers which are in line with the principles and provisions of the Convention.

66. The Committee notes that some individuals have been convicted for violating section 266 (b) of the Criminal Code and suggests that sanctions pronounced under the Criminal Code be commensurate with the nature of the related crime.

67. The Committee is concerned that equal attention be paid to the economic, social and cultural rights listed in article 5. It is particularly concerned by the level of unemployment among foreigners and the difficult access to employment of members of ethnic minorities. In particular, the Committee draws the attention of the State party to the fact that, although the State party is not obliged to provide work permits to foreign residents, it has to guarantee that foreigners who have obtained a work permit are not discriminated against in their access to employment.

68. The Committee recommends to the State party to take all effective measures to reduce unemployment among foreigners and facilitate the professional integration of all persons belonging to ethnic minorities in the public administration.

69. Though efforts in this sense have been initiated, the Committee notes that the Convention has not yet been translated into the Greenlandic language. It therefore recommends to the State party rapidly to facilitate this process and provide means for the dissemination of the Greenlandic version of the Convention.

70. The Committee reiterates its suggestion that even further action be taken to ensure that the provisions of the Convention are more widely disseminated, particularly among minority groups, government officials, employers and trade unions. The public should be better informed about the remedy available under article 14 of the Convention.

71. The Committee recommends that the State party's next periodic report, due on 8 January 2001, be an updating report and that it address all the points raised in the present observations.

D. Estonia

72. The Committee considered the initial, second, third, and fourth periodic reports of Estonia, submitted in one document (CERD/C/329/Add.2), at its 1387th and 1388th meetings (CERD/C/SR.1387 and 1388), held on 15 and 17 March 2000. At its 1398th meeting (CERD/C/SR.1398), held on 24 March 2000, it adopted the following concluding observations.

1. Introduction

73. The Committee welcomes the detailed and comprehensive report submitted by the State party, drafted in accordance with its guidelines for the preparation of reports, and the additional oral information provided by the delegation. The initiation of a frank and constructive dialogue with the State party is equally welcomed. The Committee was encouraged by the attendance of a high-ranking delegation and expresses its appreciation for the candid and constructive response of its members to the questions asked and comments made by the members of the Committee.

2. Factors and difficulties impeding implementation of the Convention

74. Having regained independence in 1991, the State party has begun the process of legislative reform and efforts in the social, economic and cultural field in the midst of economic and political transition. In doing so, the State party must deal with a legacy of difficult relations among various ethnic groups.

3. Positive aspects

75. The Committee notes with satisfaction that, notwithstanding the difficulties in this period of transition, the State party has made important progress in the area of legislative reform. It notes that among the first priorities established by Estonia was the ratification of international and regional human rights instruments. It welcomes the information provided by the State party that the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, and other international treaties, have primacy over domestic legislation and may be directly invoked in the courts.

76. The Committee notes with satisfaction the initiative taken by the State party to encourage integration of members of different nationalities residing on its territory, such as the draft State programme "Integration in Estonian Society 2000-2007" recently submitted to the Parliament for consideration.

77. The Committee welcomes the fact that the right to vote in local elections has been granted to all permanent residents, regardless of their nationality.

78. The Committee notes positively the existence of considerable number of organizations promoting minority cultures, as well as of a developed Russian-speaking media network.

4. Concerns and recommendations

79. The Committee is concerned that the definition of national minorities contained in the 1993 National Minorities Cultural Autonomy Act only applies to Estonian citizens. In the light of the significant number of non-nationals and stateless persons residing on the territory of the State party, it believes that such a restrictive and narrow definition may limit the scope of the State Programme on Integration.

80. With regard to stateless persons and their children, who are automatically born stateless, the Committee wishes to have more detailed information on this specific issue and particularly on the number of stateless persons who have been naturalized.

81. The Committee expresses particular concern that the provisions for restricted immigration quotas established by the 1993 Aliens Act apply to citizens of most countries in the world, except those of the European Union, Norway, Iceland and Switzerland. It is recommended that the quota system be applied without discrimination based on race or ethnic or national origin.

82. Information that the State party intends to reduce the provision of instruction in minority languages in the near future, including in areas where the Russian-speaking population is in the majority, is noted with concern. The Committee urges the State party to maintain the possibility for the various ethnic groups of receiving instruction in their languages or to study those languages at different educational levels without prejudice to the learning of the official language, as well as of using their mother tongue in private and in public.

83. Moreover, the Committee would like to receive detailed information in the State party's next report on the enjoyment of the Russian-speaking population of the rights listed in article 5 (d) and (e) of the Convention, in particular, possibilities for naturalization and for access to secondary education, employment, medical care and housing.

84. The State party is invited to provide further information in its next report on the following issues: (a) the work of the Legal Chancellor in ensuring respect of the Convention; (b) the existence of and measures to combat organizations of a racist character; (c) the effective penalties imposed in the case of conviction for acts of racism or racial discrimination; (d) Estonian birth rate trends, including separate data on the majority population and on ethnic minorities.

85. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

86. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of making such a declaration be considered.

87. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

88. The Committee recommends that the State party's next periodic report, due on 19 November 2000, be a comprehensive report and that it address the points raised in the present observations.

E. France

89. The Committee considered the twelfth, thirteenth and fourteenth periodic reports of France, submitted as one document (CERD/C/337/Add.5), at its 1373rd and 1374th meetings (CERD/C/SR.1373 and 1374), held on 6 and 7 March 2000. At its 1396th meeting (CERD/C/SR.1396), held on 23 March 2000, it adopted the following concluding observations.

1. Introduction

90. The Committee welcomes the reports submitted by the State party and the additional oral and written information provided by a delegation which included representatives of many government departments. At the same time it regrets the late submission of the present reports.

91. The Committee considers that the twelfth, thirteenth and fourteenth reports do not adequately address the Committee's concluding observations on the previous reports (A/49/18, paras. 140-159), although the delegation addressed some of them orally.

2. Positive aspects

92. The Committee notes with satisfaction, among new measures against racial discrimination, the law of 29 July 1998 detailing action against exclusion, the reorganization and extension of departmental anti-racism bureaux, the establishment of departmental commissions on access to citizenship, the work of the Study Group on Discrimination, the creation of departmental committees for coordinating policies against exclusion and of departmental councils on access to justice, and provisions for mediation. The Committee commends the part played by the National Consultative Commission on Human Rights in action against racial discrimination.

93. The Committee also notes that the Government has acted systematically in the suppression of speech and publications likely to incite racial hatred.

3. Concerns and recommendations

94. Since the Committee considers that the prohibition of attempts to justify crimes against humanity, and of their denial, should not be limited to those committed during the Second World War, it welcomes the assurance provided by the delegation and requests that the State party report thereon in its next periodic report.

95. While taking note of the State party's view of the importance of individual privacy when collecting information on the composition of the population, the Committee expresses concern about the paucity of information for monitoring implementation of the Convention.

96. While noting that French penal legislation satisfies most of the requirements of article 4, the Committee reiterates its recommendation that France ensure the effective prohibition of actions which are discriminatory in effect on the basis of race or ethnic or national origin, in accordance with its General Recommendation XIV (42).

97. The Committee expresses concern about possible discrimination in effect in the implementation of laws providing for the removal of foreigners from French territory, including persons in possession of valid visas, and the delegation of responsibilities which should be exercised by State officials.

98. In the light of article 3 of the Convention and its General Recommendation XIX (47), the Committee recommends that the State party monitor all tendencies which may give rise to racial or ethnic segregation and counter the negative consequences of such tendencies.

99. The Committee recommends that the State party include in the sixteenth periodic report, due on 27 August 2002, statistics on racially motivated offences, their investigation, and the punishment of the perpetrators.

100. The Committee reiterates its recommendation that France ensure the effective protection of the exercise, without discrimination, of the rights to work and to housing, in both the public and private sectors, and to provide compensation to victims of racial discrimination.

101. The Committee reiterates its recommendation that when France reviews its laws restricting certain occupations to French nationals it ensures that none is discriminatory in effect.

102. In accordance with article 5 (f) of the Convention, it is recommended that the State party reinforce existing measures to ensure that access to places or services intended for use by the general public is not denied to any person on grounds of national or ethnic origin.

103. With regard to article 6 of the Convention, the Committee recommends that the State party reinforce the effectiveness of the remedies available to victims of racial discrimination.

104. The Committee expresses concern over reports that negative images of the Roma minority prevail in the mass media and in the public generally. It recommends that the State party give full effect to the provisions of article 7 of the Convention by adopting effective measures, particularly in the fields of education, training and human rights information, to combat such prejudices.

105. The Committee expresses concern that remedies available under article 14 of the Convention may not be sufficiently well known.

106. The Committee recommends that the State party's reports should be made readily available to the public from the time they are submitted and that the Committee's observations on those reports be similarly publicized.

107. It recommends that the State party's fifteenth periodic report, due on 27 August 2000, be an updating report responding to issues raised in the consideration of the present reports and to questions outstanding from the reports considered in 1994.

F. Lesotho

108. The Committee considered the seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports of Lesotho (CERD/C/337/Add.1), at its 1389th and 1390th meetings (CERD/C/SR.1389 and 1390), held on 17 and 20 March 2000. At its 1396th meeting (CERD/C/SR.1396), held on 23 March 2000, it adopted the following concluding observations.

1. Introduction

109. The Committee welcomes the reports submitted by the State party and the additional oral information provided by the high-level delegation. It also thanks the State party for its additional updated report which not only contains useful information that was not included in the fourteenth report but also gives a more candid assessment of matters relating to racial discrimination on the territory of the State party.

110. The Committee welcomes the opportunity to resume the dialogue with the State party after a 16-year hiatus.

2. Positive aspects

111. The Committee welcomes the Constitutional status granted to the protection of human rights and the recognition of the principle of equality of persons in the State party's Constitution, in particular section 18, designed to preclude any form of discrimination, including racial discrimination.

3. Concerns and recommendations

112. The Committee is concerned about the recent incidents of tension between Lesotho nationals and Asian and South African white factory owners which resulted in kidnapping, violence and the flight of about 100 Asian nationals from the country for fear of persecution. The Committee recommends that the State party take measures to resolve the underlying socio-economic causes of these events. In this context, the Committee draws the attention of the State party to General Recommendation XI on non-citizens and the obligation to report fully upon legislation concerning foreigners and its implementation. It thus requests that more detailed information be included in the State party's next report on the situation and rights of non-nationals, residing in the country.

113. The Committee notes the non-self-executing character of international conventions in the State party and would like to have more information on the status of the Convention.

114. The Committee is concerned about increasing expressions of xenophobia resulting in acts of racial discrimination. The Committee is further concerned about the absence from the 1971 Race Relations Order of a comprehensive legislative framework prohibiting and penalizing such acts. Taking note of information provided by the delegation as to the State party's intentions to review the legislation in this respect, the Committee encourages the State party to establish appropriate and effective remedies and recourse mechanisms and to implement fully all its obligations under articles 2, 4 and 6 of the Convention.

115. The State party is invited, in its next report, to provide further information about: (a) the ethnic composition of the population and (b) measures taken to implement article 7 of the Convention.

116. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of State Parties to the Convention.

117. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of such a declaration be considered.

118. The Committee recommends that States party's reports be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

119. The Committee recommends that the State party's next periodic report, which is due on 4 December 2000, be a comprehensive report and that it address the points raised in the present observations.

G. Malta

120. The Committee considered the combined thirteenth and fourteenth periodic reports of Malta (CERD/C/337/Add.3) at its 1379th and 1380th meetings (CERD/C/SR.1379 and 1380), held on 8 and 9 March 2000. At its 1396th meeting (CERD/C/SR.1396), held on 23 March 2000, it adopted the following concluding observations.

1. Introduction

121. The Committee welcomes the submission of the report of Malta, which follows the general guidelines for the presentation of State party reports and contains an update of developments that have occurred since the consideration of the previous periodic report. The Committee expresses its appreciation to the delegation for the additional information provided during the dialogue.

2. Positive aspects

122. The Committee welcomes the amendments to the Press Act, as well as the measures envisaged by the State party to amend the Criminal Code and the Police Force Act, intended to cover aspects of article 4 of the Convention.

123. The Committee notes with satisfaction the amendment to the Citizenship Act which allows dual citizenship and entitles foreign spouses of Maltese nationals to be registered as nationals and the new law establishing procedures regarding refugees and asylum-seekers.

124. The Committee welcomes Malta's declaration in 1998 with respect to article 14 of the Convention.

3. Concerns and recommendations

125. The Committee is concerned that article 4 of the Convention is not fully covered by the legislation. The State party is recommended to take into account all aspects of article 4 in the elaboration of the new legislation and to review its declaration in relation to this article, made upon ratification of the Convention.

126. Although only a few cases of offences of a racial nature are reported, the Committee recommends that the State party investigate them carefully and take steps to prevent such incidents.

127. While noting the legislation covering many aspects of article 5 of the Convention, the Committee is concerned that the report does not sufficiently describe how this legislation is applied in practice and requests the State party to include such information in the next report.

128. It is noted with concern that there have been claims of racial discrimination in housing, particularly as regards rental accommodation. It is recommended that the State party review the situation of rental accommodation with a view to ensuring non-discrimination, and provide additional information on this matter in its next periodic report to the Committee.

129. Concern is expressed that the Employment Commission of Malta is empowered to consider only allegations of discrimination based on political opinion. It is recommended that the State party consider expanding the scope of the competence of the Commission to cover all aspects of racial discrimination.

130. The State party is encouraged to increase its efforts in disseminating information about the duties and responsibilities of the Ombudsman, as well as about the procedure for launching complaints concerning racial discrimination.

131. It is noted with concern that the new Police Code (Malta Police Force Act) provides that officers found to have treated persons in a discriminatory manner in the course of their duties are

subjected to disciplinary action only. It is recommended that the State party take the necessary measures to ensure that criminal charges are brought against police officers for acts violating the provisions of the Convention.

132. The State party is invited to provide additional information on the criteria for granting temporary as opposed to permanent refugee status, specifically as regards European and non-European asylum-seekers. The State party is also invited to provide additional information on the implementation of the recently enacted legislation regarding refugees and asylum-seekers and the effect of the recent withdrawal by Malta of the geographical limitation clause relating to non-European refugees.

133. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6 of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States parties to the Convention.

134. The Committee recommends that the State party undertake all appropriate measures to ensure that the report and these concluding observations are widely distributed to the public. The Committee further recommends that the State party's next periodic report, due on 26 June 2000, be an updating report and that it address the points raised during the consideration of the combined thirteenth and fourteenth periodic reports.

H. Rwanda

135. The Committee considered the eighth, ninth, tenth, eleventh and twelfth periodic reports of Rwanda, submitted as one document (CERD/C/335/Add.1), at its 1385th and 1386th meetings (CERD/C/SR.1385 and 1386), held on 14 and 15 March 2000. At its 1397th meeting (CERD/C/SR.1397), held on 23 March 2000, it adopted the following concluding observations.

1. Introduction

136. The Committee welcomes the reports submitted by the State party and the additional oral and written information provided by the delegation as a constructive response to the questions asked by the Committee members. The Committee also welcomes the opportunity thus offered to renew its dialogue with the State party within the framework of the regular reporting procedure.

137. The Committee notes that despite the long period which has elapsed since the examination of the State party's previous report in 1988 and the enormous tragedies which have since occurred in Rwanda, the report focuses primarily on the legislative and practical steps taken by the State party to eliminate institutionalized and other forms of racial discrimination, but contains little information on racially discriminatory acts which have been committed.

2. Factors and difficulties impeding implementation of the Convention

138. The Committee bears in mind the events of 1994 and thereafter, involving genocide and the massive loss of life, and recognizes the difficulty for the population of the State party to

overcome this recent history. The Committee is aware that the genocide continues to affect most aspects of life in the State party. The Committee also recognizes the problems posed by the attacks of armed opposition groups from outside its territory since 1994.

139. The Committee further notes that State financial and material resources were reduced to a minimum by acts of destruction and theft during the armed conflicts in 1994. While noting the progress made by the State party in addressing some of the economic problems facing the country, in particular reducing the level of inflation, the Committee is aware that the continuing economic difficulties in the State party, its heavy dependence upon scarce international assistance, and the limited resources available to the State party are significant obstacles to the full implementation of the Convention in Rwanda.

3. Positive aspects

140. The Committee commends the State party for its significant progress in addressing institutional forms of discrimination. The Committee notes with satisfaction the establishment of an independent National Human Rights Commission with a mandate to monitor and promote respect for human rights and to monitor how State institutions with responsibility for the implementation and protection of human rights, including those covered by the Convention, are managed.

141. The Committee also notes the efforts made by the State party to remove all references to ethnic distinctions from official texts and speeches, as well as from identity cards. In addition, the Committee notes the State party's efforts to prevent impunity for perpetrators of genocide and other human rights violations and to bring those most responsible for such acts to justice. The Committee is encouraged by the State party's efforts to rehabilitate the judicial system, including through the training of judicial and law-enforcement officials.

142. The Committee welcomes the efforts made by the State party to improve the economic and social rights of the people, notably through the provision of housing facilities.

143. The Committee commends the State party for its efforts to receive refugees from neighbouring countries.

4. Concerns and recommendations

144. The Committee remains concerned that impunity prevails, notably in some cases involving unlawful acts committed by members of the security forces. The Committee recommends to the State party to continue addressing impunity through the judicial process and urges the State party to make additional efforts to respond adequately to and prevent unlawful acts committed by members of the military or civilian authorities.

145. The Committee notes that given the nature of the recent genocide, the majority of the large number of imprisoned or detained persons belong to the Hutu ethnic group. The

Committee expresses its concern over the poor conditions of detention and imprisonment and the mortality rate of detained and imprisoned persons. The Committee recommends that the State party continue its efforts to respect minimum standards of detention.

146. The Committee recognizes the difficulties faced by the State party in the administration of justice and acknowledges the State party's efforts to identify practical methods to strengthen judicial procedures, including through the use of customary law practices. It urges the State party to take further measures to reduce periods of pre-trial detention and to ensure that the right to equal treatment before the law, as defined in article 5 (a) of the Convention, is respected in national and customary judicial proceedings.

147. The Committee notes the State party's past efforts to introduce "screening" practices, such as the Commissions de Triage, as an additional means of providing an early release from detention of those persons against whom there is little recorded evidence of criminal offences. The Committee recommends to the State party to recommence such efforts and to ensure that the population in general is well informed of these procedures so that those persons who are released are able to reintegrate into their communities in safety. The Committee further recommends that amnesty should be extended to lesser offenders who confess their crimes.

148. The Committee notes with satisfaction that the State party has resumed its cooperation with the International Tribunal for Rwanda and recommends to the State party to assist and to cooperate fully with the Tribunal.

149. While noting that the State party's measures to relocate large groups of the population to semi-urban locations are intended to improve access to water, health and other services, the Committee is concerned about reports of forced relocations and that some relocated persons do not have access to adequate housing. The Committee recommends to the State party to ensure that all relocations are on a non-discriminatory basis and that relocated persons enjoy, without discrimination, the rights listed in article 5 of the Convention.

150. The Committee recognizes the State party's efforts to establish a specialized centre for juveniles accused of participating in the genocide, but remains concerned at the detrimental effect upon children of long periods of detention. While taking into consideration the very serious and tragic acts of which these juveniles are accused, the Committee nevertheless recommends that the State party make every effort to reintegrate such juveniles into the community as soon as is possible.

151. The Committee is concerned about recent reports on the setting up of village-based local defence forces, armed with firearms and machetes, receiving very limited training and which include among their recruits very young persons. The Committee recommends to the State party to avoid any action which might lead to new outbursts of ethnic violence, especially violence involving juveniles.

152. Recalling its decisions on Rwanda under its early warning and urgent action procedures, notably its decisions 5 (53) of 19 August 1998 and 3 (54) of 19 March 1999, the Committee is

further concerned by reports of the intimidation of judicial authorities seeking to investigate and address human rights violations committed since 1994 against ethnic Hutus.

153. The Committee calls upon the State party to make additional efforts to investigate allegations of serious ethnic violence and humanitarian law violations that may have been committed and to address these acts through the judicial process, while maintaining full respect for the relevant human rights of accused and detained persons and ensuring that judicial officials are able to conduct their work free from intimidation or other pressure.

154. The State party is invited, in its next report, to provide further information on the following issues: (a) actions taken in respect of human rights to improve the mutual understanding of all members of the population; (b) further actions taken to address human rights violations stemming from discriminatory treatment; and (c) actions taken, and results achieved, by the National Human Rights Commission.

155. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

156. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of making the declaration be considered.

157. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

158. The Committee recommends that the State party's next periodic report, due on 16 May 2000, be an updating report and that it address the points raised in the present observations.

I. Spain

159. The Committee considered the fourteenth and fifteenth periodic reports of Spain, submitted as one document (CERD/C/338/Add.6), at its 1383rd and 1384th meetings (CERD/C/SR.1383 and 1384), held on 13 and 14 March 2000. At its 1396th meeting (CERD/C/SR.1396), held on 23 March 2000, it adopted the following concluding observations.

1. Introduction

160. The Committee welcomes the reports submitted by the State party and the additional oral information provided by the delegation, although it was considered that numerous and voluminous annexes to the report in Spanish prevented members from having easy access to essential information. The Committee was encouraged by the attendance of a delegation composed of representatives of many government departments and expresses its appreciation for the frank and constructive responses of the members of the delegation to the questions asked.

161. The Committee acknowledges that the State party has addressed some of the concerns and recommendations set out in the Committee's previous concluding observations. However, the new report is an updating report describing developments in the interim period, rather than the comprehensive one that the Committee requested. Moreover, the new report does not conform fully with the Committee's reporting guidelines.

2. Positive aspects

162. The Committee notes the recent enactment of Organic Law No. 4/2000 on Rights and Freedoms of Foreigners, the implementation of which will be followed closely and with great interest, particularly with respect to regularization schemes for illegal immigrants and the establishment of integration programmes.

163. The Committee encourages the continued implementation and evaluation of the results of the "Gypsy development programme" initiated by the Government in 1989 and conducted in cooperation with Roma associations. It notes with particular interest the favourable effects in the field of housing of measures designed to ensure that the Roma are not discriminated against.

3. Concerns and recommendations

164. The Committee notes with concern that remarkably few cases before national courts have been identified as incidents of racial discrimination, despite a recognized general increase in juvenile violence, including attacks on foreigners by extremist groups, neo-Nazi movements and gangs. It also notes that violence against certain foreigners often results in judicial proceedings alleging assault, unlawful detention and property damage, and that the racial aspect of such acts is not taken into consideration. With reference to article 4 of the Convention, the Committee recommends that the State party register, for inclusion in the next periodic report, statistics of allegations of racially-motivated and related offences, their investigation and the punishment of those responsible.

165. The Committee is concerned about the recent incidents of violence against persons of Moroccan nationality in El Ejido in the region of Almeria and is further concerned about reports that the underlying socio-economic problems which provoked these events are also found in other regions of the country. The Committee therefore recommends that the State party take measures to resolve the underlying causes of tension and unrest, not merely on an emergency basis, but as part of a long-term strategy to combat racial discrimination and violence, so as to prevent the recurrence of such incidents. The Committee also wishes to receive further information concerning the criminal proceedings brought against individuals involved in the incidents, and to know to what extent convictions were directly linked to acts of racial discrimination.

166. The Committee notes that no easily accessible information was provided with regard to the status of the inhabitants of Ceuta and Melilla. The State party is requested to provide information on their status and on whether they enjoy, without discrimination, the rights listed in article 5 of the Convention.

167. With reference to article 5 (e) of the Convention, the Committee expresses concern about reports indicating the prevailing discrimination against persons of foreign origin, particularly in the field of employment. The Committee wishes to receive further information on measures taken by the State party to ensure the practical enjoyment by persons belonging to ethnic or national minorities of the rights to work and to equal opportunities for promotion and career development, to education and to housing.

168. While noting the positive measures taken by the State party to ensure that the Roma are not discriminated against, the Committee expresses concern over the high drop-out rates and registered absences of Roma children in primary schools, as well as the low number of Roma completing higher education. The State party is requested to provide information about measures undertaken and planned to ensure equal education opportunities for the Roma minority.

169. With reference to previously expressed concern about reports of racist attitudes on the part of the police and Civil Guard officers, the State party is requested to provide information in its next report on any evaluation made of the effectiveness of non-discrimination training schemes for these officers.

170. The State party is invited to provide further information in its next report on the following issues: (a) the ethnic composition of the population and the principal socio-economic situation of each group; (b) action taken to implement Organic Law No. 4/2000 on Rights and Freedoms of Foreigners effectively; (c) the results of the regularization schemes for illegal immigrants, and (d) measures taken to ensure that laws governing the right to education and linguistic standardization in the Autonomous Communities are not discriminatory in effect.

171. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

172. While noting that the State party has made the declaration provided for in article 14 of the Convention, the Committee recommends that the State party review its reservation under article 14, which imposes a restrictive deadline of three months instead of six after the exhaustion of domestic remedies, for the submission of communications to the Committee.

173. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

174. The Committee recommends that the State party's next periodic report, which was due on 4 January 2000, be a comprehensive report and that it address the points raised in the present observations.

J. Tonga

175. The Committee considered the fourteenth periodic report of Tonga (CERD/C/362/Add.3) at its 1384th meeting (CERD/C/SR.1384), held on 14 March 2000. At its 1395th meeting (CERD/C/SR.1395), held on 22 March 2000, it adopted the following concluding observations.

1. Introduction

176. The Committee welcomes the report submitted by the State party and expresses satisfaction over the regularity with which it fulfils its reporting obligations under the Convention. Although regretting the absence of a delegation at the meeting, the Committee recognizes the difficulties inherent in the appointment of such a delegation for a small State like Tonga.

177. The Committee is particularly pleased by the special effort made by the State party to respond to questions contained in its previous concluding observations (CERD/C/304/Add.63).

2. Positive aspects

178. The Committee notes with appreciation the State party's information, in response to previous requests from the Committee, on the constitutional protection of the enjoyment of rights enumerated in article 5 of the Convention.

3. Concerns and recommendations

179. The Committee notes that the State party repeatedly asserted that there is no racial discrimination as defined in article 1 of the Convention. The Committee underlines, however, that the obligation of States parties to enact explicit legislation in accordance with article 4 of the Convention should not be seen merely as a means to ensure protection against existing violations of the Convention, but as a preventive measure. The Committee is of the opinion that the absence of complaints and legal action by victims of racial discrimination could possibly be an indication of a lack of awareness of available legal remedies, or a result of the absence of relevant specific legislation. The Committee recommends that the State party take steps to ensure that national legislation is in full conformity with article 4 of the Convention.

180. The Committee notes that the Convention has not been incorporated in domestic law and cannot be invoked before the national courts. It notes, however, that the State party asserts that the Convention is implicitly applied.

181. The Committee recommends, with reference to its revised general guidelines regarding the form and contents of reports (CERD/C/70/Rev.4), that the State party include in its next report information on factors affecting and difficulties experienced in ensuring for women the equal enjoyment, free from racial discrimination, of rights under the Convention, in order for the Committee to be able to assess whether any racial discrimination has an impact on women different from that which it has on men.

182. Particular concern is expressed at section 10 (2) (c) of the Immigration Act of the Laws of Tonga, according to which the right to marriage between a Tongan and a non-Tongan is conditioned by the written consent of the Principal Immigration Officer. The Committee considers that such legislation might constitute a breach of article 5, paragraph (d) of the Convention.

183. The State party is invited to provide further information in its next report on measures taken in the field of education and culture to combat and prevent racial discrimination.

184. The Committee recommends that the State party prepare a core document in accordance with the consolidated guidelines for the initial part of the reports of States Parties (A/45/636, para. 65).

185. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

186. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of making such a declaration be considered.

187. The Committee recommends that the State party's next periodic report, due on 17 March 2001, be a comprehensive report and that it address all the points raised in the present observations.

K. Zimbabwe

188. The Committee considered the combined second, third, and fourth periodic reports of Zimbabwe (CERD/C/329/Add.1) at its 1374th and 1375th meetings (CERD/C/SR.1374 and 1375), held on 7 and 8 March 2000. At its 1395th meeting (CERD/C/SR.1395), held on 22 March 2000, it adopted the following concluding observations.

1. Introduction

189. The Committee welcomes the submission of the report of Zimbabwe which followed the general guidelines for the presentation of States parties' reports. The Committee expresses its appreciation for the additional information provided in the core document (HRI/CORE/1/Add.55) and orally by the delegation. The Committee is encouraged by the constructive, open and frank dialogue it had with the delegation and welcomes the positive reactions to the suggestions and recommendations made during the discussion.

2. Factors and difficulties impeding the implementation of the Convention

190. The Committee notes that prior to 1980, the legislation and policies implemented by the white minority regime in Zimbabwe led to racial segregation and discrimination in the country.

The continuing effects of Zimbabwe's social and political history, together with the burden of the external debt and other economic concerns, have impeded full implementation of the Convention.

3. Positive aspects

191. The Committee notes the efforts made by the State party within the educational system to reduce racial segregation, introduce the use of minority languages and incorporate human rights education into the curricula through innovative methods.

192. The Committee welcomes Zimbabwe's recent enactment of the Prevention of Discrimination Act which, inter alia, prohibits "discrimination on the ground of race, tribe, place of origin, national or ethnic origin, political opinions, colour, creed or gender" and the 1997 amendment to the Ombudsman's Act which broadens the mandate to include investigation of any violations of human rights committed by members of the defence and police forces and the prison service.

193. The Committee notes the amendment to the Administration of Estates Act which addresses concerns previously raised with respect to customary law regarding marriage, inheritance and succession.

194. The Committee welcomes the State party's initiative to introduce, with the support of the International Committee of the Red Cross, human rights training for civil servants as well as members of the police and defence forces.

4. Concerns and recommendations

195. The Committee is concerned that the Ombudsman is restricted in her powers to investigating the actions of public officials in fields relating to racial discrimination. There is also concern that article 4 of the amendment to the Ombudsman Act limits access to the complaints process. It is recommended that the State party take appropriate measures to enable the Ombudsman to monitor public officials and their powers.

196. The Committee notes that the Ministry of Education has encountered problems in addressing the racial segregation created by the parallel system of public and private schools. It is recommended that the State party, in its next periodic report, provide additional quantitative and qualitative information on racial segregation in schools.

197. There is concern that the Prevention of Discrimination Act does not adequately address all the elements of article 4, particularly as regards the prohibition and criminalization of all organizations and propaganda activities that promote and incite racial discrimination. Additionally, there is concern that the inclusion of "the risk element" referred to in section 6 (1) of the Act, weakens the text, whereas article 4 of the Convention does not limit or place conditions on the prohibition of racist statements.

198. It is noted with regret that the full implementation of the policy to introduce minority languages into the school curricula has been impeded by financial, human and material constraints. The State party is encouraged to proceed with its proposal to give priority in the teacher training and curriculum development programmes to persons with minority languages.

199. The Committee notes with concern the insufficient information provided on the situation of refugees, migrants and non-nationals residing in Zimbabwe. Additionally, it notes with dissatisfaction that the laws concerning citizenship give preference to non-national female spouses over non-national male spouses of nationals of Zimbabwe and that the children born to citizens of Zimbabwe overseas may not acquire citizenship. It is recommended that the State party review its citizenship laws to ensure non-discrimination. The State party is invited to provide, in its next periodic report, additional information on the situation of refugees, migrants and non-nationals residing in Zimbabwe as well as the relevant legislative measures available to ensure the protection of their rights.

200. While noting the challenges faced by the State party with respect to land redistribution, the Committee regrets that very little progress has been made in this regard since the consideration of the initial report. Concern is expressed that the criteria established for persons to qualify as beneficiaries under the Commercial Farm Settlement Scheme may limit the number of black farmers who qualify. It is recommended that the State party introduce measures to improve access to financial and technical support for black farmers who may not otherwise qualify under the Scheme and in this context consider the possibility of communal access to commercial farmland. The State party is encouraged to continue its study of land reform measures with a view to implementing a comprehensive land reform programme in Zimbabwe, in accordance with due process of law and in a manner that will enhance the economic and social rights of its citizens.

201. Concern is expressed at the insufficient information provided with respect to article 6 of the Convention. The State party is requested to include information in its next periodic report on the measures undertaken to improve public awareness of the Convention and other legal mechanisms that guarantee and protect against all forms of discrimination as well as the development of case law in this regard.

202. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of making the declaration be considered.

203. The Committee recommends that the next periodic report of the State party be readily available to the public from the time it is submitted and that these concluding observations be made widely available to the public. The Committee further recommends that the State party's next periodic report, due on 12 June 2000, be an updating report and that it address the points raised during the consideration of the present report.

L. Finland

204. The Committee considered the fifteenth periodic report of Finland (CERD/C/363/Add.2), at its 1403rd and 1404th meetings (CERD/C/SR.1403-1404), held on 1 and 2 August 2000. At its 1414th meeting (CERD/C/SR.1414), held on 9 August 2000, it adopted the following concluding observations.

1. Introduction

205. The Committee welcomes the detailed and comprehensive report of the State party, which in an open and self-critical manner addresses the different issues raised in the Committee's previous concluding observations. The Committee also expresses its appreciation for the additional information provided in oral and written form and for the frank and constructive dialogue with the State party's delegation.

2. Positive aspects

206. The Committee notes the legislative measures adopted by the State party with a view to combating racial discrimination, including the new Constitution, the new Act on the Integration of Immigrants and Reception of Asylum-Seekers and the Personal Data Act, the amendment of the Aliens Act, and the revision of the legislation concerning education.

207. The Committee welcomes the efforts made by the State party to establish an institutionalized system for protection against racial discrimination and promotion of rights of minorities, mainly Sami and Roma.

208. The Committee notes with interest the proposal for a governmental National Programme of Action against Ethnic Discrimination and Racism in order to enhance good ethnic relations and prevent ethnic discrimination and racism in Finnish society.

209. The Committee welcomes the number of in-depth studies undertaken on ethnic relations, in particular on Finnish attitudes towards immigrants, ethnic groups and ethnic discrimination at work.

210. The Committee notes with interest that anti-racist projects have been implemented also at the regional and local levels, in particular the Finnish Romako joint project to raise the education level of the Roma and prevent their social exclusion.

3. Concerns and recommendations

211. The Committee notes the lack of a uniform terminology on discrimination in different Finnish laws. In light of article 1 of the Convention and in order to better combat acts of racism, the Committee recommends the adoption of explicit anti-discriminatory legislation.

212. The Committee reiterates its concern at the absence of a law prohibiting organizations which promote and incite racial discrimination and of a provision in the Penal Code declaring

any dissemination of ideas based on racial superiority or hatred punishable by law. The Committee urges the State party to give due consideration in this respect to the Committee's general recommendation VII relating to the implementation of article 4 of the Convention. The Committee also recommends that the State party consider adopting provisions to increase the severity of sentences for racially motivated crimes, in particular racial violence.

213. The Committee is concerned that Roma continue to experience discrimination in the fields of housing, education and employment. It also expresses concern about reports that Roma are sometimes denied access to and service in public places such as restaurants. The Committee recommends that the State party take additional measures at the national and municipal levels to improve the situation of the Roma minority, with a view to preventing social exclusion and discrimination against them.

214. The Committee regrets that the question of land ownership of the Sami has not yet been resolved and that Finland has not acceded to Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries of the International Labour Organization. Furthermore, it expresses its concern about activities authorized by State bodies in Sami reindeer-breeding areas which may threaten Sami culture and their traditional way of life. The Committee urges the State party to pursue its efforts, together with the Sami people, towards the adequate resolution of the land dispute, giving due consideration in this respect to general recommendation XXIII, and requests the State party to provide full information on this issue in the next periodic report.

215. The Committee expresses its concern that in some cases the new accelerated procedure in the revised Aliens Act would result in the repatriation of an asylum-seeker while his or her appeal was still pending. The Committee recommends that the State party take all available measures to guarantee the legal safeguards for asylum-seekers.

216. The Committee is concerned about the fact that with respect to racially motivated crimes, the police do not always intervene or its action is not always appropriate and that prosecutors hesitate to initiate criminal proceedings. It also notes that according to a 1999 study on attitudes of public authorities towards immigrants, police and frontier guards have the most negative attitude. The Committee recommends the continuation and strengthening of training programmes for police and all law enforcement officials and the improvement of communication between officials and immigrants in order to enhance mutual confidence. In cases where police officers are personally involved in racially motivated acts, it recommends that an independent body investigate and invites judges and prosecutors to be more active and firm in prosecuting these cases.

217. The Committee notes with concern that immigrants, refugees and minorities, in particular Roma, have higher rates of unemployment, have difficulties in gaining access to housing and social services and have higher rates of school drop-out. The Committee is concerned about the low number of judicial proceedings initiated related to incidents of racial discrimination, including cases of discrimination in employment. The Committee recommends that the State

party take all necessary measures to alleviate the situation of immigrants, refugees and minorities, in particular Roma, at the national and municipal levels, especially with respect to housing, employment and education.

218. In the light of article 6 of the Convention, the Committee notes that the only way of obtaining reparation or satisfaction for any damage suffered as a result of an act of racial discrimination is through a penal proceeding. The Committee recommends that the State party consider ensuring alternative measures to penal proceedings in cases of discrimination.

219. The Committee is concerned at the increasing number of racist acts. Also, it notes with concern reports showing that a significant percentage of Finns declare themselves to be racist or partially racist and are opposed to the practice of Islam by immigrants (refugees). It notes also that media often present immigrants and minorities, in particular Roma, in a negative light. The Committee invites the State party to strengthen measures to promote tolerance and combat prejudices, in particular in the field of teaching, education, culture and information. It also recommends that the State party find adequate modalities to make journalists and people working in the media sector more aware of racial discrimination.

220. The Committee further recommends that the State party take all necessary measures to establish the Office of the Discrimination Ombudsman and to provide the necessary human and financial resources to enable the Office to carry out its tasks in an effective way.

221. The Committee further invites the State party to ensure the wide dissemination of the text of the Convention, as well as of the report and the concluding observations adopted thereon. The accepted individual communications procedure under article 14 of the Convention should be widely publicized throughout Finland for the benefit of the general public.

222. The Committee recommends that the State party's next periodic report, due on 16 August 2001, be an updating report, and that it address the points raised in the present concluding observations.

M. Mauritius

223. The Committee considered the thirteenth and fourteenth periodic reports of Mauritius, submitted as one document (CERD/C/362/Add.2), at its 1401st and 1402nd meetings (CERD/C/SR.1401 and 1402), held on 31 July and 1 August 2000. At its 1414th meeting (CERD/C/SR.1414), held on 10 August 2000, it adopted the following concluding observations.

1. Introduction

224. The Committee welcomes the detailed report submitted by the State party, which was drafted taking account of the reporting guidelines of the Committee, as well as the additional information provided orally by the delegation. It also welcomes the constructive dialogue pursued with the State party.

225. The Committee was encouraged by the fact that the Government was represented by a high-ranking delegation; its direct and constructive replies to the questions asked and its comments were much appreciated.

2. Positive aspects

226. The Committee notes the multi-ethnic diversity of the population of Mauritius and the harmony in which its various constituent ethnic groups live. The State party's experience regarding ethnic and racial problems is thus very instructive in the view of the members of the Committee.

227. The Committee notes with satisfaction that since the consideration of its last periodic report, the State party has established two new institutions, namely the National Human Rights Commission and the Committee on Poverty, both of which will contribute to combating racial discrimination.

228. Lastly, the Committee welcomes the forthcoming adoption of the Equal Opportunities Act, aimed at the implementation of article 5 of the Convention, and the introduction of a Public Security Act punishing any act or conduct inciting to racial hatred, in conformity with article 4 of the Convention.

3. Concerns and recommendations

229. The Committee reminds the State party that the existence of constitutional and legislative provisions prohibiting racial discrimination and incitement to racial hatred and the absence of judicial decisions relating to such acts does not mean that there is no racial discrimination in Mauritian society. It is therefore essential to inform the public of the existence of such legal provisions.

230. The Committee notes that the State party has not provided it with sufficient information about the rioting that broke out between Creole groups and groups of Indian origin following the death of a popular singer at a police station. The Committee would like to know the results of the inquiry on this issue.

231. Despite its previous requests, the Committee notes that it has still not been provided with statistical data on the ethnic composition of Mauritian society. The Committee would appreciate information on the ethnic and gender composition of the population to be included in the next report.

232. Since the National Human Rights Commission and the Committee on Poverty are very recent institutions, the State party is also invited, in its next report, to provide further information on their functioning and the results of their activities, with particular reference to problems of racial discrimination.

233. It is noted that the State party has not made the declaration provided for in article 14 of the Convention and some members of the Committee requested the State party to consider the possibility of making such a declaration.

234. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

235. The Committee recommends that the State party's periodic reports be made widely available to the public from the time they are submitted and that the Committee's concluding observations be similarly publicized.

236. The Committee recommends that the State party's next periodic report, due on 29 June 2001, be an updating report and that it address the points raised in the present observations.

N. Slovenia

237. The Committee considered the initial, second, third and fourth periodic reports of Slovenia (CERD/C/352/Add.1) at its 1405th and 1406th meetings, on 2 and 3 August 2000 (CERD/C/SR.1405 and 1406) and at its 1416th meeting (CERD/C/SR.1416), on 10 August 2000, adopted the following concluding observations.

1. Introduction

238. The Committee welcomes the detailed report presented by the Government of Slovenia, which follows the Committee's guidelines and contains relevant information about the implementation of the provisions of the Convention in the State party. The Committee particularly welcomes the opportunity to be able to initiate a dialogue with the State party and appreciates the detailed answers to questions raised and concerns expressed during the consideration of the report.

2. Positive aspects

239. The Committee welcomes the efforts undertaken by the authorities of the State party since its independence in 1991 to ensure the promotion and protection of human rights. In particular, it notes the adoption of the 1991 Constitution, which guarantees a wide range of human rights, and the enactment of the Citizenship Act (1991), the Personal Data Protection Act (1999), the Radio and Television Act (1994), the Law on Asylum (1997), the Human Rights Ombudsman Act (1993/4), the Act on the Legal Status of the Religious Communities (1991), the Political Parties Act (1994), the Act on the Legal Status of Religious Communities (1991) and the Redress of Wrongs Act (1996).

240. The establishment of specific institutions dealing with human rights issues, such as the Office of the Human Rights Ombudsman, the Office for Nationalities, the Office for Immigration and Refugees, the Office for Religious Communities and the Office of the Republic of Slovenia

Youth, are considered as positive measures. With reference to the Office of the Human Rights Ombudsman, the Committee especially welcomes the fact that the Ombudsman may by law initiate proceedings ex officio.

241. The Committee welcomes the appropriate measures taken by the State party authorities to resolve the issue of citizenship of former citizens of the Socialist Federal Republic of Yugoslavia following the proclamation of the independence of Slovenia.

242. The Committee notes the specific measures taken for the promotion and the protection of the human rights of the Roma population, including their right to vote and to be elected, the possibility given to this community to gain access to education, including pre-school education, and programmes for professional training.

3. Concerns and recommendations

243. Although the State party provided some information in its report, the Committee remains concerned at the status of the Convention vis-à-vis domestic law, especially regarding cases of conflicts with national legislation and the possibility of invoking provisions of the Convention in the courts. In this connection, the Committee requests the State party to provide further information in its next periodic report on the status of the Convention in domestic law and on court cases, if any, during which the Convention was invoked.

244. The Committee notes that different minority groups are provided by law with differentiated protection measures in different areas of daily life, such as political representation, access to media, education and culture. The Committee notes that minority groups such as Croats, Serbs, Bosnians and Roma do not enjoy the same level of protection from the State party as the Italian and Hungarian minorities. In this connection, the Committee recommends that the State party, in accordance with article 2 of the Convention, ensure that persons or groups of persons belonging to other minority groups are not discriminated against.

245. The Committee is concerned that the legislation presently in force doesn't seem to respond to all the requirements of article 4 of the Convention, which are mandatory. It is also noted that no information on condemnations of individuals and organizations that disseminate ideas of racial superiority or use racial violence was provided by the State party in its report. The Committee takes note of the oral comments made by the delegation on this matter and recommends that the State party review the existing domestic legal framework with a view to implementing all provisions of article 4 of the Convention and to including in the next periodic report relevant information on this subject. The Committee also recommends that the State party take all appropriate measures to inform the general public about existing judicial remedies for victims of racism or xenophobia in order to encourage the use of such remedies.

246. Although the Committee welcomes the initiatives taken by the Slovenian authorities to sensitize and train civil servants and public officials on human rights and racial discrimination

issues, the Committee remains concerned that these efforts are still insufficient. The Committee recommends that the State party strengthen its human rights sensitization and training programmes, especially with regard to law enforcement and military personnel.

247. The Committee is concerned that the temporary protection offered by the State party to refugees might be insufficient to guarantee their basic rights. The Committee recommends that the State party review its policy on temporary protection of refugees in order to guarantee all their rights, especially those covered by the Convention, and facilitate their integration in Slovenian society.

248. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of making such a declaration be considered.

249. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

250. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

251. The Committee recommends that the State party's next periodic report, due on 6 July 2001, be an updating report and that it address the points raised in the present observations.

O. Slovakia

252. The Committee considered the initial, second and third periodic reports of Slovakia, due on 28 May 1994, 1996 and 1998 respectively and submitted as one document (CERD/C/328/Add.1), at its 1407th and 1408th meetings (CERD/C/SR.1407 and 1408), held on 3 and 4 August 2000. At its 1419th meeting (CERD/C/SR.1419), held on 11 August 2000, it adopted the following concluding observations.

1. Introduction

253. The Committee welcomes the consolidated report, which contains detailed information on the legal framework relating to the implementation of the Convention, and appreciates the supplementary material provided to update the report since its submission. The Committee welcomes the opportunity to be able to initiate an open and constructive dialogue with the State party.

2. Positive aspects

254. The Committee appreciates the fact that the State party has ratified several international human rights instruments. Further, the Committee notes with satisfaction that under the

Constitution, international instruments, including the Convention, ratified by the Slovak Republic take precedence over national legislation.

255. The Committee welcomes the establishment of the post of the Deputy Prime Minister on Human Rights, National Minorities and Regional Development. The Committee also welcomes the establishment of the Government's Plenipotentiary for Addressing Roma Minority Issues, and the approval by the State of the 1999 Strategy for the Solution of the Problems of the Roma National Minority and the Set of Measures for its Implementation. The Committee will follow the progress of the work of the Plenipotentiary with interest and encourages the State party to support the activities of this office and the implementation of the Strategy.

256. The Committee welcomes the many initiatives undertaken by the State party, such as convening international and national conferences on the issues of racism and national minorities, and legal reforms, including the adoption of the Law on the Use of Languages of National Minorities No. 184/1999 Coll., demonstrating its commitment to combating racial discrimination. It further welcomes the work towards the amendment of civil and criminal laws, taking into account the provisions of the Convention.

257. The Committee welcomes the State party's declaration under article 14 of the Convention.

3. Concerns and recommendations

258. The Committee notes the absence in the report of disaggregated data on the population, giving details of ethnic composition. The Committee recommends that the State party provide this data, including gender composition, in subsequent reports, in an appropriate form.

259. While noting detailed information on constitutional and legal provisions, the Committee regrets the absence of examples of the practical implementation of the provisions of the Convention. The Committee recommends that the State party include such an assessment, together with information on any difficulties encountered in implementing the Convention.

260. The Committee is concerned about settlement patterns with regard to the Roma minority. The Committee is particularly concerned about the fact that two municipalities issued decrees banning Roma from their territory and the duration of proceedings to lift them. The Committee recommends that the State party review legislation regulating local residence permits, investigate promptly and thoroughly incidents of discrimination in access to housing and give speedy consideration to these issues. The Committee invites the State party to monitor trends which give rise to racial segregation and indicate its findings in subsequent reports.

261. The Committee is concerned at the persistence of acts of violence by groups, particularly "skinheads", directed towards Roma and other ethnic minorities. The Committee recommends that the State party strengthen procedures for timely and thorough investigations and effective prosecutions of racist organizations. The Committee further encourages the State party to expand throughout the State preventive programmes to curb racially motivated violence.

262. The Committee is concerned that despite school education being compulsory, a disproportionately large number of Roma children are not enrolled in schools, have high drop-out rates, do not complete higher education or are segregated and placed in schools for mentally disabled children. The Committee recommends that the State party address the various factors responsible for the low level of education among the Romas with a view to improving enrolment and continue efforts to develop and expand strategies to facilitate the integration of minority pupils into mainstream education.

263. While welcoming the adoption of Act No. 292/1999 concerning the prohibition of discriminatory vacancy announcements, the Committee recommends that further measures be taken for effective prohibition of discrimination in employment.

264. In light of the fact that the Roma are among the populations hardest hit by unemployment because of inadequate skill levels and low levels of education, the Committee recommends that the State party ensure that the National Employment Plan contains adequate job-training initiatives, and implement affirmative action programmes to improve the employment situation among the Roma in various levels of employment.

265. The Committee is concerned that a disproportionately large number of Roma suffer higher mortality rates, have poorer nutrition levels, and low levels of awareness of maternal and child health. Moreover, the Committee is concerned about poor access to clean drinking water, adequate sanitation, and high exposure to environmental pollution in Roma settlements. The Committee recommends that the State party take all necessary measures to ensure that the Roma enjoy the full right to health and health care. The Committee recommends that the State party prioritize and target social services for persons belonging to the most vulnerable groups.

266. With respect to the various initiatives undertaken pursuant to the United Nations Decade for Human Rights Education, such as inclusion of human rights teaching in the school curricula, police academies and in detention facilities, the Committee would welcome information in subsequent reports on the effectiveness of these measures and public awareness-raising campaigns to prevent racial discrimination.

267. The State party is also invited, in its next report, to provide further information on the following issues: (a) the implementation of resolution No. 110 of the National Council on Human Rights and National Minorities, which calls for, inter alia, cooperation with NGOs to combat racial crimes and ongoing training at all levels for professionals working within the criminal justice system; and (b) comprehensive statistics on the number of racist offences that are reported, including against the police, the number of cases prosecuted, the reasons for not prosecuting, and the eventual outcome.

268. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

269. The Committee recommends that the State party ensure the wide dissemination of the text of the Convention and make its periodic reports readily available to the public from the time they are submitted, and that the Committee's concluding observations on them be similarly publicized.

270. The Committee recommends that the State party's next periodic report be an updating report, and that it addresses the points raised in the present observations.

P. Czech Republic

271. The Committee considered the third and fourth periodic reports of the Czech Republic (CERD/C/372/Add.1) at its 1411th and 1412th meetings (CERD/C/SR.1411 and 1412), on 7 and 8 August 2000, and at its 1419th meeting (CERD/C/SR.1419), on 11 August 2000, adopted the following concluding observations.

1. Introduction

272. The Committee welcomes the comprehensive report presented by the Government of the Czech Republic, in accordance with the Committee's guidelines, which contains relevant information about the implementation of the provisions of the Convention in the State party. The Committee appreciates the frank and constructive dialogue with the State party delegation, composed of representatives of a wide range of governmental offices, as well as the detailed answers to questions raised and concerns expressed during the consideration of the report.

2. Positive aspects

273. The Committee welcomes the additional amendments to the Act (194/1999) on the Acquisition and Loss of Citizenship (September 1999), which has helped to resolve problems relating to the acquisition of Czech citizenship for former citizens of the Czech and Slovak Federal Republic.

274. The Committee welcomes the establishment of new advisory bodies on matters relevant to combating racism and intolerance, in particular the Government's Commissioner for Human Rights and the Council for Human Rights. In addition, the Committee takes note of the process to enact the draft bill for the creation of a Public Rights Protector (Ombudsman), which is expected to enhance the protection of citizens against any inappropriate treatment by the State administration, including acts of racial discrimination.

275. The launching and implementation of the "Tolerance Project" (December 1999-June 2000), a public awareness campaign intended to prevent racial discrimination and increase tolerance, as well as other programmes in the field of human rights education are regarded as significant measures in the implementation of article 7 of the Convention.

276. The Committee also welcomes the Act on the System of Primary and Secondary Schools (1999), which facilitates the entry of special school graduates into secondary schools, a measure that is designed to benefit Roma cildren.

277. The Committee welcomes the steps taken by the authorities of the State party to make the declaration provided for in article 14 of the Convention, and encourages the State party to finalize this process as soon as possible.

278. The publication on an Internet site of the Ministry of Justice of the initial and second periodic reports as well as the concluding observations and other related documents relating to the dialogue between the State party and the Committee is noted with appreciation.

3. Concerns and recommendations

279. While the Committee welcomes measures taken by the State party for the promotion and the protection of the human rights of the Roma minority, in particular the ones included in the "Concept of Government Policy Towards Members of the Roma Community" (June 2000), it remains concerned by the fact that the Roma population continue to be subjected to discrimination in the fields of housing, education and employment. The Committee recommends that the State party include in its next periodic report information on the impact of the measures taken to improve the situation of the Roma minority, especially the ones designed to eliminate their social exclusion.

280. With regard to article 3 of the Convention, concern is expressed about the existing situations of de facto segregation in the areas of housing and education of the Roma population. In particular, concern is expressed at measures taken by some local authorities leading to segregation and at the practice of school segregation by which many Roma children are placed in special schools, offering them lesser opportunities for further study or employment. The Committee recommends that the State party undertake effective measures to eradicate promptly practices of racial segregation, including the placement of a disproportionate number of Roma children in special schools.

281. The Committee is concerned that some organizations, including political parties, promoting racial hatred and superiority are hidden behind legally registered civic associations whose members are promoting xenophobia and racism. Concern is also expressed at the ineffective implementation of existing legislation to prosecute the perpetrators of incitement to racial hatred and support to racist movements. In light of article 4 of the Convention, the Committee recommends that the State party strengthen law enforcement to ensure that these organizations are dismantled and their members prosecuted.

282. While noting the information provided by the State party on the number of convictions for racially motivated offences, the Committee is concerned by the increasing number of incidents of racially motivated violence against minority groups, in particular against members of the Roma community, many of which may not even be reported. The Committee recommends that the State party strengthen the measures already undertaken to intensify enforcement of the criminal law against racially motivated crimes.

283. The Committee reiterates its concern at the lack of criminal, civil or administrative law provisions expressly outlawing racial discrimination in education, health care, social care, the penitentiary system, as well as in the private sphere. The Committee recommends that the State

party undertake legislative reform to safeguard the enjoyment, without any form of discrimination, by all segments of the population, of the economic, social and cultural rights listed in article 5 of the Convention. It further recommends that such reform should include the provision of adequate reparation for victims of racial discrimination.

284. The Committee reiterates its concern about the lack of effectiveness and confidence in the ability of the criminal judicial system to prevent and combat racial crimes. In this connection, concern is also expressed about the degrading treatment by the police of members of minority groups. The Committee recommends the continuation and strengthening of training programmes for police and all officials in charge of implementing the law on issues related to the implementation of the Convention. The Committee reminds the State party of the Committee's general recommendation XIII relating to the implementation of articles 2 and 7 of the Convention.

285. With regard to article 7 of the Convention, the Committee is of the opinion that the measures taken by the State party in the field of teaching, education, culture and information to combat racial discrimination should be intensified. In this regard, the Committee recommends that the State party continue and extend its educational programmes in order to raise awareness of the population at large of all aspects relating to racism and racial discrimination.

286. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

287. The Committee recommends that the State party ensure the wide dissemination of the text of the Convention and continue to make its periodic reports readily available to the public from the time they are submitted, and that the Committee's concluding observations on them be similarly publicized.

288. The Committee recommends that the State party's next periodic report, due on 22 February 2002, be an updating report and that it address the points raised in the present observations.

Q. Nepal

289. The Committee considered the fourteenth report of Nepal (CERD/C/337/Add.4), which was due on 1 March 1998, at its 1415th meeting (CERD/C/SR.1415), held on 9 August 2000. At its 1427th meeting (CERD/C/SR.1427), held on 18 August 2000, it adopted the following concluding observations.

1. Introduction

290. The Committee appreciates the submission of the report, which contained a frank and open discussion of the State party's socio-economic profile, as well as detailed information on the legal framework relating to the implementation of the Convention.

2. Positive aspects

291. Welcoming the information from the delegation that the National Human Rights Commission began its activities at the end of May 2000, the Committee looks forward to being kept informed about its future work.

292. The Committee welcomes the initiatives undertaken by the State party, such as the Decision of 17 July 2000 on the emancipation of bonded labourers and the adoption of the 1997 Compensation for Torture Act, demonstrating its commitment to furthering the human rights of its people.

293. The Committee welcomes the adoption of the State party's Ninth Plan, containing important policies, strategies and programmes, which aim inter alia, to eradicate racial discrimination against disadvantaged groups by addressing their socio-economic development.

3. Factors and difficulties impeding the implementation of the Convention

294. In light of the multi-ethnic and multicultural society of the State party, the Committee notes that the existence of certain traditional customs, i.e. the caste system, and social attitudes are obstacles to efforts to combat discrimination. The Committee further notes that extreme poverty, which affects a significant part of Nepal's population, and the presence of a large number of refugees from neighbouring countries are factors which represent serious difficulties in the fulfilment of the State party's obligations under the Convention.

4. Concerns and recommendations

295. In view of the State party's reservation on articles 4 and 6 of the Convention, the Committee remains concerned that the full implementation of those provisions may not be ensured, and therefore reiterates its previous recommendation to the State party to consider withdrawing its reservation.

296. The Committee requests the State party to provide in its subsequent reports information, on, inter alia, the National Human Rights Commission's responsibilities, composition, methods and achievements particularly in combating racial discrimination. The Committee recommends that the State party provide adequate resources to ensure the capacity and effectiveness of this institution.

297. The Committee expresses concern about the absence in the report of disaggregated data on the population, including by age, sex, nationality, ethnic origin, religion, including caste, and language. The Committee recommends that the State party provide these data in subsequent reports.

298. While noting the detailed information provided in the report of constitutional and legislative provisions relating to the implementation of the Convention, the Committee regrets the absence of any information on the effectiveness of these measures. The Committee emphasizes that guarantees of non-discrimination laid down in constitutional or legislative

provisions, without mechanisms to monitor their application, do not on their own ensure the enjoyment of non-discrimination. The Committee reiterates its previous recommendations that the State party provide information in subsequent reports on the practical implementation and monitoring of articles 4, 5 and 6 of the Convention, including on mechanisms for the receipt of complaints, conducting investigations and prosecutions and implementing consequent decisions.

299. The Committee remains concerned at the existence of caste-based discrimination, and the denial which this system imposes on some segments of the population of the enjoyment of the rights enshrined in the Convention. The Committee reiterates its previous recommendation that the State party provide information in its next periodic report on the implementation of practical and substantive measures to eradicate the practice of the caste system, including measures for the prevention of caste-motivated abuse and the prosecution of State and private actors responsible for such abuse. Moreover, the State party is encouraged to implement, inter alia, affirmative measures to advance and protect persons subjected to caste-based discrimination.

300. The Committee emphasizes that the State party is responsible for ensuring that the Convention is implemented at the local level, and recommends that the State party ensure adequate support to local authorities, including development of professional capacity, for implementation of the Convention and that it continue to prioritize and target social services for persons belonging to the most vulnerable groups.

301. The Committee is concerned about the situation of a large number of refugees from neighbouring countries in Nepal, and regrets the absence of any information in the report on their situation. Furthermore, the Committee is concerned at the absence of legislative protection for refugees and asylum-seekers. The Committee requests the State party to include in subsequent reports information on the situation of refugees. It reminds the State party of the importance it attaches to international instruments relating to the protection of refugees and to the adoption of national legislation that ensures that refugees enjoy the rights contained in the Convention.

302. In connection with the implementation of article 7 of the Convention, the Committee reiterates its previous recommendation that the State party take all necessary measures to ensure the training and education of law enforcement officials, teachers and social workers, and include the teaching of human rights in school curricula. The Committee encourages the State party to carry out comprehensive public education campaigns to combat discriminatory traditional customs and societal attitudes. The Committee would welcome information in subsequent reports on the effectiveness of these measures.

303. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such a declaration be considered.

304. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

305. The Committee recommends that the State party's report be made readily available to the public from the time it is submitted and that the Committee's concluding observations on the report be similarly disseminated.

306. The Committee recommends that the State party ensure the submission of its fifteenth periodic report, and that it be an updating report, addressing all the points raised in the present observations.

R. Netherlands

307. The Committee considered the thirteenth and fourteenth periodic reports of the Netherlands, submitted in one document (CERD/C/362/Add.4) at its 1413th and 1414th meetings (CERD/C/SR.1413 and 1414), on 8 and 9 August 2000, and at its 1424th meeting (CERD/C/SR.1424), on 16 August 2000, adopted the following concluding observations.

1. Introduction

308. The Committee welcomes the very detailed updated report presented by the Government of the Netherlands, containing information on the European part of the Kingdom of the Netherlands, the Netherlands Antilles and Aruba, which follows the Committee's guidelines and contains relevant information about the implementation of the provisions of the Convention. The Committee particularly welcomes the opportunity to be able to continue a constructive and open dialogue with the State party represented by a large delegation and appreciates the detailed answers to questions raised and concerns expressed during the consideration of the report, including valuable written answers from Aruba.

2. Positive aspects

309. The Committee notes that the Netherlands is one of the few countries to refer to minorities without making a distinction between nationals and non-nationals; it welcomes the plan to apply the Framework Convention for the Protection of National Minorities of the Council of Europe without regard to nationality.

310. The Committee notes further progress in the implementation of article 4 of the Convention and welcomes the judicial proceedings that have led to the prohibition of a racist political party. It notes also the creation of the National Discrimination Centre within the prosecution service, the appointment of a national police "discrimination officer", the existence of public prosecutors and advocates general specialized in discrimination cases, and the Partnership Training Project between the police, the public prosecution service and civil society.

311. The Committee welcomes with great satisfaction the establishment of the Reporting Centre for Discrimination on the Internet which is aimed at combating racism on Internet sites. The Committee considers this initiative a major step forward in the fight against contemporary forms of racism and looks forward to receiving updated information on the work of the Centre.

312. The Committee welcomes the appointment of a Minister for Urban Policy and Integration of Ethnic Minorities.

313. The Committee is also satisfied that its previous request for information on the Frisian-speaking community has been met and that the State party has given satisfactory information on the situation of this community.

314. For the Netherlands Antilles, the Committee welcomes the efforts undertaken - despite huge difficulties - to address the problems of children with language backgrounds different from those of the majority.

315. For Aruba and the Netherlands Antilles, the Committee welcomes the plans to address immigration problems cooperatively in the region.

316. The Committee acknowledges the efforts by the government in Aruba to promote the national language, Papiamento, in the educational system and cultural life.

3. Concerns and recommendations

317. While the Committee acknowledges the increase in employment among members of minorities, it is concerned that the unemployment rate among minority groups remains four times higher than among the native Dutch population. The Committee therefore hopes to receive information on the results of the "action plan" set up by the Government to reduce that difference by 50 per cent and on the evaluation of the new legal measures (Wet SAMEN).

318. The Committee is concerned about insufficient protection against discrimination in the labour market, it regrets the privatization and the planned dissolution of the Women and Minorities Employment Bureau and wonders what institution is going to fulfil the Bureau's task in the future.

319. While acknowledging the efforts to recruit members of minorities into government service, including the police and armed forces, the Committee is concerned about the disproportionately high number of members of minorities leaving the police forces. It recommends that the State party strengthen its efforts to create a police force reflective of the total population.

320. The Committee expresses concern at de facto school segregation in a number of localities and recommends that the State party undertake further measures to reduce de facto segregation and to promote a multicultural educational system.

321. The State party is invited in its next report to provide further information on the following issues: (a) the revision of the Criminal Code; (b) the living conditions of the Roma minority and the specific measures taken to improve them; (c) the further implementation of the Employment of Minorities (Promotion) Act; (d) the participation of minorities in local elections; (e) the changes brought by the draft new Aliens Act; and (f) statistical data on complaints, indictments and judicial decisions relating to acts of racism.

322. For the Netherlands Antilles, the Committee is concerned that there have been social tensions and problems in the educational system relating to immigration; it recommends that the problems be addressed on a regional level, so as to avoid racial discrimination.

323. While noting the information from the government of Aruba that domestic servants may change employers though not occupation, it recommends that the government ensure that the status of domestic servants under immigration law is not exploited by employers.

324. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

325. The Committee recommends that the State party's next periodic report, due on 5 January 2001, be an updating report and that it address the points raised in the present observations.

8. Sweden

326. The Committee considered the thirteenth and fourteenth periodic reports of Sweden, submitted as one document (CERD/C/362/Add.5), at its 1417th and 1418th meetings (CERD/C/SR.1417 and 1418), held on 10 and 11 August 2000. At its 1431st meeting (CERD/C/SR.1431), held on 22 August 2000, it adopted the following concluding observations.

1. Introduction

327. The Committee welcomes the submission of the report of Sweden which followed the general guidelines for the presentation of State party reports and provided relevant and updated information about the measures taken to implement the Convention since the consideration of the twelfth periodic report. The Committee expresses its appreciation for the constructive and frank dialogue it had with the State party.

2. Positive aspects

328. The Committee welcomes the recent legislative initiatives undertaken by the State party including the Act on National Minorities in Sweden, the Act on Immigrant Integration Policy, the Act on Countering Ethnic Discrimination in Working Life, the Ethnic Discrimination Ombudsman Act, the amendment to the Fundamental Law on Freedom of Expression and to the Criminal Code concerning incitement to racial discrimination, and the Act on Responsibility for Electronic Bulletin Boards.

329. The Committee notes with satisfaction that the State party has set up a National Integration Office to promote and facilitate the implementation of its new integration policy and to monitor and evaluate developments as they relate to the ethnic and cultural diversity of the society as a whole.

330. The Committee welcomes the appointment of the General Commission on Swedish Local Democracy to encourage broader participation in local government of people with immigrant backgrounds.

331. The Committee welcomes the additional initiatives to combat racial discrimination and xenophobia, including, the establishment of the Commission for the Study of Racist Crimes; the development of a plan of action by the Prosecutor General to reinforce the measures against crimes with racist or xenophobic motives; the implementation of programmes such as "EXIT" to counteract the activities of racist organizations; the reinforcement of training for prison and probation officials in countering prejudice, racism and xenophobia among staff; the publication and dissemination by the Ethnic Discrimination Ombudsman of resource materials on, inter alia, non-discrimination in recruitment; the introduction of measures to enhance employment opportunities, including within the public sector, for immigrants through, inter alia, language training; the implementation of additional measures to ensure that children of asylum-seekers are afforded equal access to education and health care; and the expansion of awareness-raising initiatives through, inter alia, books on the Holocaust.

332. The State party's effort to include NGOs in the preparation of its thirteenth and fourteenth periodic reports and generally in the reporting process is welcomed by some members of the Committee.

333. The Committee encourages the intention to set up a National Action Plan against Racism, Xenophobia and Ethnic Discrimination and encourages the State party to continue its efforts in this regard.

334. The State party's efforts to disseminate the Convention, as well as the concluding observations and the summary records of its previous meetings with the Committee, among Sami and other minority groups, NGOs, trade unions and the wider public are welcomed.

3. Concerns and recommendations

335. The Committee is concerned that a recent upsurge in racism and xenophobia has been seen which has given rise to increased neo-Nazi violence, especially among youth. In this context, the Committee notes with concern, the increasing popularity of "white power" music which promotes hatred against ethnic minorities. The Committee encourages the State party to continue its efforts to arrest the upsurge in racism and xenophobia, prevent and punish racist neo-Nazi violence and prosecute any persons whose actions incite to racial hatred.

336. While the Committee notes that the State party has adopted some measures to promote greater awareness about the Roma minority and to encourage greater participation of Roma in the society, it is concerned about the difficulties which Roma continue to experience in exercising their rights. The Committee recommends that the State party submit in its next periodic report additional information on the situation of the Roma minority, particularly as regards education, employment and housing. The State party is requested to pay particular attention to the situation of Roma women and children.

337. While the Committee notes the new legislation which gives individuals the right to use the Sami language in legal and administrative proceedings, it stresses that this right is recognized only in respect of some geographic regions. It is recommended that the State party consider the extension of these rights to all Sami territory.

338. Concern is expressed over the issue of land rights of the Sami people, in particular hunting and fishing rights which are threatened by, inter alia, the privatization of traditional Sami lands. The Committee recommends that the Government introduce legislation recognizing traditional Sami land rights and reflecting the centrality of reindeer husbandry to the way of life of Sweden's indigenous people. The Committee further recommends that the State party ratify ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

339. The Committee expresses concern about increasing de facto residential segregation. The Committee recommends that the State party ensure compliance with the law against discrimination in the allocation of housing and in its next periodic report supply information on the measures taken to address such segregation.

340. In light of article 4 of the Convention, the Committee is concerned that existing legislation does not prohibit and penalize all organizations and propaganda activities that promote or incite racial hatred and discrimination. The Committee recommends that the State party declare illegal and prohibit any organization which promotes or incites racial discrimination. The Committee calls attention to its general recommendation XV in this regard.

341. While the Committee notes the enactment of the Countering Ethnic Discrimination in Working Life Act, as well as the recent decline in unemployment in the State party, it remains concerned about the difficult access to employment of members of ethnic minorities. The Committee recommends that the State party take all necessary measures to increase its efforts to facilitate the occupational integration of all persons belonging to ethnic minorities into the public administration.

342. Concern is expressed at the increasing incidence of racial discrimination in restaurants, other public places, and with regard to access to services. The Committee recommends that effective action be taken, utilizing administrative measures as well as criminal prosecutions to ensure that access to places or services intended for use by the general public is not denied on grounds of national or ethnic origin, contrary to article 5 (f) of the Convention.

343. While the Committee notes that the official statistics of the State party do not contain data which distinguishes people based on their ethnic origin, it recommends that the State party provide in its next periodic report more comprehensive and updated statistical information along the lines of paragraphs 8 and 9 of the Committee's guidelines regarding the form and content of reports to be submitted by States parties.

344. The Committee recommends that the State party undertake all appropriate measures to ensure that the report and these concluding observations are widely distributed to the public. It also recommends that the State party continue and develop its dialogue with civil society, in particular with the non-governmental organizations.

345. The Committee further recommends that the State party's fifteenth periodic report be an updated report and that it address the points raised during the consideration of the report.

T. United Kingdom of Great Britain and Northern Ireland

346. The Committee considered the fifteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/338/Add.12 - Part I) and its Overseas Territories (CERD/C/338/Add.12 - Part II), which was due on 6 April 1998, at its 1420th and 1421st meetings (CERD/C/SR.1420 and 1421), held on 14 August 2000. At its 1430th meeting (CERD/C/SR.1430), held on 21 August 2000, it adopted the following concluding observations.

1. Introduction

347. The Committee welcomes the detailed and comprehensive reports submitted by the State party, drafted in accordance with its guidelines for the preparation of reports, and the additional oral information provided by the delegation in response to the wide range of questions asked by Committee members.

348. The Committee acknowledges that the State party has addressed some of the concerns and recommendations of the Committee's previous concluding observations. It further welcomes the fact that NGOs were consulted in the preparation of the report.

2. Positive aspects

349. The Committee welcomes the recent legislative measures taken, including: the adoption of the 1998 Crime and Disorder Act, introducing higher maximum penalties for racially motivated crimes or offences involving racial hostility; the 1998 Northern Ireland Act, establishing a new independent Human Rights Commission for Northern Ireland; and the 1998 Human Rights Act, giving further effect to the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and due to be implemented as of October 2000.

350. The Committee welcomes the Action Plan developed by the Home Secretary as a follow-up to the findings of the independent judicial inquiry into the murder of Stephen Lawrence and notes with interest the number of innovative recommendations contained in the Inquiry Report and the Action Plan, including that a record be made by police officers of all "stops and searches" under any legislative provision and that the record contain the self-defined ethnic identity of the person stopped.

351. The Committee also welcomes the establishment by the Home Secretary of the Race Relations Forum; the setting up of a ministerial Social Exclusion Unit to rehabilitate the inner city areas where a high percentage of members of national and ethnic minorities live; and the launching of the New Deal scheme, which includes a pro-active strategy to introduce young members of ethnic and national minorities on the labour market.

352. The Committee welcomes that British courts have established that the Roma minority is considered a racial group covered by the 1976 Race Relations Act; the identification of Irish Travellers as a racial group for the purposes of the 1997 Race Relations (Northern Ireland) Order; and the initiatives taken to promote the socio-economic situation of Roma Travellers, such as the establishment of Traveller Education Services at the local level.

353. The Committee welcomes the use of ethnic monitoring to ascertain the numbers of persons of particular ethnic and national origins in various kinds of employment and the setting of targets to increase the employment of persons of minority origins in fields where they are under-represented, as well as the use of ethnic monitoring in the criminal justice system, including of the prison population, in order to identify points at which discrimination occurs and to develop means of rectifying it.

354. The Committee welcomes the Home Secretary's employment targets for the ethnic minorities to be employed in different grades in the Home Office, the police, prison service, fire service and the probation service by 2002, 2004 and 2009, and for the armed service to reach 5 per cent by 2001/2002.

3. Concerns and recommendations

355. The Committee notes the position maintained by the State party with regard to the non-inclusion of the full substance of the Convention within the domestic legal order, and reiterates its concern that full effect has therefore not been given to the provisions of the Convention and that individuals cannot be protected from any discriminatory practices unless they have been explicitly prohibited by Parliament. The Committee recommends that the State party consider giving full effect to the provisions of the Convention in its domestic legal order.

356. The Committee also reiterates its concern regarding the restrictive interpretation by the State party of the provisions of article 4 of the Convention and maintains that such an interpretation is in conflict with the State party's obligations under article 4 (b) of the Convention. The Committee recalls its general recommendation XV, according to which all provisions of article 4 are of a mandatory character and that prohibition of dissemination of racist ideas is compatible with the right to freedom of expression. The Committee adds further that the provisions of article 4 are of a preventive nature and that States parties on whose territories no organizations promoting and inciting racial discrimination hypothetically exist are nevertheless bound by those provisions.

357. While acknowledging the numerous separate initiatives taken by the State party to combat racial discrimination, the Committee notes the absence of comprehensive legislation to this end. The Committee recommends that the State party also develop an interdepartmental strategy in this regard.

358. The Committee is deeply concerned that racist attacks and harassment are continuing and ethnic minorities are feeling increasingly vulnerable. The Committee is further concerned about the findings of "institutional racism", within the police force and other public institutions, which has resulted in serious shortcomings with regard to investigations into racist incidents. Noting

that a significant number of recommendations in the Home Secretary's Action Plan for improving the handling of racist crimes are already being implemented, the Committee invites the State party to provide in its next report further information on the impact of the measures introduced and on steps taken to implement outstanding recommendations. In this context, the Committee also expresses concern about the reported negative response from certain parts of the police force to recent criticism brought forward by the Lawrence Inquiry Report and recommends that the State party take steps to address the backlash among police officers.

359. The Committee recalls that it has previously expressed concern about incidents of death in police custody disproportionally involving members of ethnic or national minority groups and notes that the problem continues. There have been a number of cases of deaths in police custody and in prisons of members of ethnic minority communities in which no officers of the police or the prison service have been prosecuted nor disciplinary action taken against them by the Independent Police Complaints Authority or the Crown Prosecution Service. It recommends that the State party provide detailed information on measures taken to prevent such incidents and ensure fully independent investigations into complaints against the police, in order to inspire confidence in the criminal justice system among the ethnic minority communities. The Committee looks forward to the State party's findings as to the feasibility of an independent complaints system.

360. The Committee notes with concern that, as acknowledged by the State party, there is increasing racial tension between asylum-seekers and the host communities, which has led to an increase in racial harassment in those areas and also threatens the well-being of established ethnic minority communities. The Committee also recommends that the State party take the lead by sending out positive messages about asylum-seekers and protecting them from racial harassment.

361. The Committee expresses concern that the dispersal system may hamper the access of asylum-seekers to expert legal and other necessary services, i.e. health and education. It recommends that the State party implement a strategy ensuring that asylum-seekers have access to essential services and that their basic rights are protected.

362. The Committee notes the State party's current intensified efforts to clear the backlog of asylum applications. The Committee recommends that the State party ensure that effective safeguards are in place to respect the rights of all asylum-seekers.

363. The Committee notes with concern that there is a lack of information about settled Roma, who constitute 70 per cent of the total Roma population. It also expresses concern regarding admission and access to schools by Roma Travellers.

364. The Committee notes with concern the continued high level of unemployment among ethnic minority groups. The Committee expresses concern that there is racist harassment and bullying in schools and that ethnic minorities continue to be disproportionately excluded from

schools. It recommends that the State party intensify its efforts to ensure full enjoyment by all of the rights provided in article 5 of the Convention, without discrimination, giving particular attention to the rights to employment, education, housing and health.

365. The Committee notes with concern that positive action is only practised "by training bodies, by employers and by trade unions and employers' organizations". The Committee recommends that the State party consider introducing affirmative measures in accordance with article 2, paragraph 2, of the Convention, when circumstances so warrant, for certain racial groups or individuals belonging to ethnic minorities who are experiencing disadvantage with respect to educational achievement and other elements of their socio-economic profiles.

366. The Committee encourages the State party to introduce specific legislation against racial discrimination by private persons or organizations currently taking place in several of the Overseas Territories, such as Anguilla, the British Virgin Islands, Gibraltar, Montserrat, and the Turks and Caicos Islands.

367. The Committee remains concerned that specific legislation against racial discrimination has not yet been introduced in all Overseas Territories, including the Cayman Islands and Montserrat, and recommends that the State party continue its efforts to encourage such territories to proceed to the adoption of legislation prohibiting and penalizing racial discrimination, in accordance with the provisions of the Convention.

368. The Committee looks forward to receiving in the next report of the State party disaggregated data giving details of the ethnic composition of the population, the socio-economic situation and the gender composition of each group, both regarding the United Kingdom of Great Britain and Northern Ireland and its Overseas Territories, including the Cayman Islands, Montserrat, Pitcairn, and the Turks and Caicos Islands.

369. The State party is invited to provide in its next report further information on the impact on racial equality of: (a) the work of the Social Exclusion Unit; (b) the New Deal scheme; and (c) the implementation of the 1998 Human Rights Act.

370. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention, and some of its members request that the possibility of making such a declaration be considered.

371. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

372. The Committee recommends that the State party's sixteenth periodic report be an updating report and that it address the points raised in the present concluding observations.

U. Ghana

373. The Committee considered the twelfth, thirteenth, fourteenth and fifteenth periodic reports of Ghana, which were due on 4 January 1992, 1994, 1996 and 1998, respectively, submitted as one document (CERD/C/338/Add.5), at its 1432nd meeting (CERD/C/SR.1432), held on 22 August 2000. At its 1436th meeting (CERD/C/SR.1436), held on 24 August 2000, it adopted the following concluding observations.

1. Introduction

374. The Committee notes the reports submitted by the State party, while regretting the late submission of the twelfth, thirteenth and fourteenth periodic reports, and expresses its appreciation for the additional oral information provided by the delegation. The report was not adequately prepared in accordance with the Committee's guidelines for the preparation of States parties' reports.

375. The Committee notes that the report does not contain information on implementation of most of the concerns and recommendations expressed by the Committee in the concluding observations on the eleventh periodic report (A/47/18, paras. 128-141).

2. Positive aspects

376. The Committee notes with appreciation the State party's policy of preventing the exploitation of ethnic differences and commends the State party for the degree to which its population of more than 50 ethnic groups has avoided serious, prolonged conflict.

377. The Committee notes that article 17 of the 1992 Constitution guarantees equality before the law and prohibits discrimination on the basis of "gender, race, colour, ethnic origin, religion, creed or social and economic status". It notes with interest the definition of discrimination provided under article 17, paragraph 3, of the Constitution as treatment resulting "in disabilities or restrictions on some persons which are not imposed on others or resulting in privileges or advantages for some persons which are not afforded to others".

378. The Committee welcomes the establishment in 1993 of the Commission on Human Rights and Administrative Justice to protect human rights, particularly the right to be protected from racial discrimination. The Committee takes note of the capacity of the Commission to investigate violations of fundamental rights and freedoms following a complaint or on its own initiative, as well as the binding nature of its decisions on the parties. The Committee notes also the establishment of the National Commission for Civic Education and welcomes its activities in the field of human rights education and training.

379. The Committee commends the State party for adopting measures that outlaw the practice of slavery known as "Trokosi", which affects solely females in the Ewe ethnic group, and encourages the State party to strictly enforce the criminal sanctions for violations.

3. Concerns and recommendations

380. The Committee is concerned at the lack of detailed information regarding the implementation of constitutional guarantees against racial discrimination, the legal status of the Convention under Ghanaian law, and the extent to which existing legislation is sufficient to ensure the implementation of articles 2 through 6 of the Convention. The Committee recommends that the State party conduct a detailed review of relevant legislation to ensure that it implements fully the provisions of the Convention and that the State party include in its next report detailed information in this respect.

381. The Committee notes with concern that there are continuing tensions between ethnic groups in the northern region of Ghana and recommends that the State party take immediate and effective steps to address the root causes of these tensions.

382. In this context, the Committee takes note of information concerning the existence of a Permanent Peace Negotiating Team set up to mediate and seek peaceful settlement of conflicts that arise among different ethnic groups, particularly those based on disagreements regarding chieftaincy, succession and land title issues, while regretting the lack of detailed information with regard to its functioning, mandate and composition. The Committee requests that the State party provide such information in its next report.

383. The Committee notes the lack of detailed information provided about the work of the Commission on Human Rights and Administrative Justice and the Commission's handling of cases regarding racial discrimination. The Committee recommends that the State party provide in its next report information on any complaints handled by the Commission that may have addressed instances of racial discrimination.

384. The Committee regrets the lack of information in the report concerning the demographic composition of the country. The Committee recalls that it drew attention to this issue in its last concluding observations. In accordance with paragraphs 8 and 9 of its guidelines on the form and content of States parties' reports, the Committee recommends that the State party provide the Committee in its next report with statistical data regarding socio-economic status, participation in public life and other relevant information concerning different ethnic groups.

385. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

386. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of such a declaration be considered.

387. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of the States Parties to the Convention.

388. The Committee recommends that the State party's next periodic report be a comprehensive report and that it address all the points raised in the present concluding observations.

V. Holy See

389. The Committee considered the thirteenth, fourteenth and fifteenth periodic reports of the Holy See, due on 31 May 1994, 1996 and 1998 respectively and submitted in one document (CERD/C/338/Add.11), at its 1425th meeting (CERD/C/SR.1425), held on 17 August 2000. At its 1433rd meeting (CERD/C/SR.1433), held on 23 August 2000, it adopted the following concluding observations.

1. Introduction

390. The Committee notes the submission of the report of the Holy See which followed the general guidelines for the presentation of States parties' reports. The Committee is encouraged by the constructive dialogue it had with the delegation and the positive reactions to the suggestions and recommendations made during the discussion.

391. The Committee notes that the unique structure and nature of the State party may limit the directness of the measures that can be taken to fully implement the Convention.

2. Positive aspects

392. The Committee notes with satisfaction that the laws and teachings of the Catholic Church promote tolerance, friendly coexistence and multiracial integration and that Pope John Paul II has on a number of speeches openly condemned all forms of racism, racial discrimination and xenophobia manifested through racial tensions and conflicts around the world. The Committee welcomes the solemn request of His Holiness for pardon for past acts and omissions of the Church which may have encouraged and/or perpetuated discrimination against particular groups of people around the world.

393. The information given by Vatican Radio and Osservatore Romano (the Vatican's daily newspaper) in promoting the principles of the Convention is welcomed.

394. The Committee welcomes the efforts of the State party and encourages it to continue its active role in promoting conflict prevention and resolution as well as dialogue between and within religions. In particular, it notes the positive initiatives undertaken by the State party to promote peace and bring an end to ethnic conflicts. The State party is also encouraged to continue its initiatives in this regard.

395. Appreciation is expressed for the contributions made by the Pontifical Council for the Pastoral Care of Migrants and Itinerant People through, inter alia, declarations and programmes of action to promote non-discrimination against refugees and migrants in various parts of the world. In this context, the Committee notes the efforts undertaken by the State party to promote the rights of the Roma populations.

396. The Committee expresses its appreciation for the role of the Catholic Church in promoting education, particularly in developing countries. The Committee further welcomes the opening up of Catholic schools to children from different religious creeds as well as the promotion of tolerance, peace and integration through education. The Committee notes with satisfaction that in many countries where the majority of the population is non-Christian, Catholic schools are places where children and young people of different faiths, cultures, social classes or ethnic backgrounds come into contact with each other.

3. Concerns and recommendations

397. The Committee recommends that the State party implement, as appropriate, the Convention, and invites it to provide in its next periodic report information on the relationship of article 4 to Canon Law and Penal Law in Vatican City State.

398. The Committee notes the clarification outlined in paragraph 106 of the report concerning the involvement of ecclesiastics, against the precepts of the Catholic Church, in the genocide in Rwanda. The State party should cooperate fully with the national and international judicial authorities in connection with prosecutions relating to the Rwanda genocide.

399. While welcoming the extensive statistical information provided in the State party's report concerning the membership and administrative structure of the Roman Catholic Church as well as Catholic educational establishments globally, the Committee invites the State party to provide data on the inhabitants and administrative structure of Vatican City State.

400. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of making the declaration be considered.

401. The Committee recommends that the State party undertake all appropriate measures to ensure that the report and these concluding observations are widely distributed to the public. The Committee further recommends that the State party's next periodic report be an updating report and that it address the points raised during the consideration of the report.

W. Norway

402. The Committee considered the fifteenth periodic report of Norway (CERD/C/363/Add.3) at its 1426th and 1427th meetings (CERD/C/SR.1426 and 1427), on 17 and 18 August 2000, and at its 1434th meeting (CERD/C/SR.1434), on 23 August 2000, adopted the following concluding observations.

1. Introduction

403. The Committee welcomes the detailed updating report presented by the Government of Norway, which follows the Committee's guidelines and contains relevant information about the implementation of the provisions of the Convention in the State party. The Committee particularly welcomes the opportunity to continue a constructive and open dialogue with the

State party and appreciates the detailed answers to questions raised and concerns expressed during the consideration of the report.

2. Positive aspects

404. The Committee notes that the State party consulted the Government's Advisory Committee on Human Rights as well as a number of NGOs in the drafting of its report.

405. The Committee welcomes the adoption of the Human Rights Act in anticipation that it will contribute to the implementation of the Convention.

406. The Committee welcomes the establishment of the Centre for Combating Ethnic Discrimination and trusts that the State party will ensure that it receives sufficient support to operate as an independent entity.

407. The Committee welcomes the adoption of the Plan of Action for Human Rights as well as the Plan of Action for Recruiting Persons with an Immigrant Background to the State Sector for the period 1998-2001 to reduce structural barriers to employment and to improve measures targeted at the attitudes and practice of employers.

408. The Committee also appreciates actions by the Ministries of Education, Health and Social Affairs, the Council of Judges and the Directorate of Immigration to develop training courses to increase the knowledge and skills of public servants and judges in the prevention of racial discrimination.

409. The Committee notes that changes in policies for the reception of asylum-seekers and refugees and the institution of an Appeals Board should improve present protection against racial discrimination.

410. The Committee is satisfied that the State party is funding projects such as EXIT to develop strategies to discourage young people from supporting racist groups.

411. The Committee particularly welcomes the State party's action in apologizing to the Roma for injustices they have suffered in the past.

3. Concerns and recommendations

412. While it welcomes the incorporation of the International Covenant on Civil and Political rights, the International Covenant on Economic, Social and Cultural Rights and the European Convention on Human Rights into a single (Norwegian) Human Rights Act, the Committee is concerned that the International Convention on the Elimination of All Forms of Racial Discrimination has not been similarly incorporated. The absence of an explicit prohibition of racial discrimination in the Norwegian Constitution increases this concern. The Committee recommends that the body charged with drafting the Human Rights Act be further encouraged to introduce the provisions of this Convention into the new statute.

413. The Committee notes that there has been little progress in monitoring racial discrimination through record-keeping of racist incidents, indictments, sentences and compensation. The Committee maintains its request for information on court decisions on racial discrimination and recommends that the State party review its procedures for monitoring racist incidents in order to increase their effectiveness.

414. The Committee recommends that the effectiveness of the training courses referred to in paragraph 428 above be assessed in due course.

415. With respect to the implementation of article 4 of the Convention, the Committee notes that racist organizations have not been prohibited. The Committee reminds the State party that in its opinion, prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression.

416. The Committee is concerned that persons seeking to rent or purchase apartments and houses are not adequately protected against racial discrimination on the part of vendors. It recommends that the State party give full effect to its obligations under article 5 (e) (iii) of the Convention.

417. Noting that a commission has been established to review the State party's legislation against racial discrimination, the Committee recommends that consideration be given to the introduction of provisions within other branches of its legislation to supplement the provisions of the Criminal Code wherever this might produce more effective protections.

418. The Committee expresses concern over reports of racial discrimination in access to places of service to the general public, notably restaurants and discotheques, and over reports that the criminal law does not always provide effective protection. The Committee recommends that licences to operate such establishments include a prohibition of racial discrimination.

419. The State party is invited in its next report to provide further information on the following issues: (a) the functioning and first results of the Appeals Board for Asylum and Immigration Cases; (b) the steps taken to facilitate employment of minorities in the public sector; and (c) the results of the two plans of action mentioned in paragraph 11 of the State party's report.

420. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

421. The Committee recommends that the State party's sixteenth periodic report, due on 5 September 2001, be a comprehensive report and that it address the points raised in the present observations.

X. Uzbekistan

422. The Committee considered the initial and second periodic report of Uzbekistan (CERD/C/327/Add.1) at its 1428th meeting (CERD/C/SR.1428), on 18 August 2000, and at its 1433rd meeting (CERD/C/SR.1433), on 23 August 2000, adopted the following concluding observations.

1. Introduction

423. The Committee welcomes the comprehensiveness and high quality of the report submitted by the State party, in accordance with the Committee's guidelines, which contains relevant information about the implementation of the provisions of the Convention in the State party. The Committee welcomes the opportunity to initiate an open and constructive dialogue with the State party.

2. Positive aspects

424. The Committee welcomes the incorporation of the fundamental provisions of the International Bill of Human Rights into the Constitution of the State party.

425. The State party's ratification of the six major human rights international instruments is welcomed by the Committee. The ratification in 1992 of ILO Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation (1958) is also welcomed.

426. The Committee notes with appreciation that article 18 of the Constitution of the State party establishes the principle of equality of all citizens irrespective of their race, nationality, language and other attributes.

427. The Committee welcomes the creation of core institutions for the protection and promotion of human rights, including the Constitutional Court, the Parliamentary Institute for Monitoring Current Legislation, the Office of the Parliamentary Commissioner for Human Rights (Ombudsman) and the National Human Rights Centre of the Republic of Uzbekistan.

428. The measures taken by the State party in the field of teaching, education, culture and information on human rights, especially those of the National Centre for Human Rights, are welcomed by the Committee.

3. Concerns and recommendations

429. The Committee recommends that the State party include in its next periodic report an assessment of its implementing the Convention, together with information on any difficulties encountered.

430. The Committee recommends that the State party include in its next periodic report additional information concerning the status of the Convention in relation to the Constitution and other domestic legislation, with a view to providing the Committee with a better understanding of the status of the Convention in the State party's legal system.

431. With regard to measures undertaken to combat racial discrimination, the Committee notes with interest the information on the revision of legislation prohibiting racial discrimination undertaken by the Parliamentary Institute for Monitoring Current Legislation and the Parliamentary Commissioner for Human Rights (Ombudsman). In this regard, the Committee recommends that the State party include in its next report the results of this legislative review as well as information on the actions undertaken by the Ombudsman in the field of combating racial discrimination.

432. The Committee, noting with concern that some isolated cases of inter-ethnic conflict have been reported, recommends that the State party pay particular attention to the effective prevention and monitoring of possible areas of ethnic conflict.

433. The Committee takes note that articles 141, 153 and 156 of the State party's Criminal Code establish measures according to article 4 (a) of the Convention. Nevertheless, the Committee was unable to determine whether the legislation of the State party fully conforms with the provisions of article 4 (b) and (c) of the Convention. In this regard, with a view to having a clearer understanding of the scope of the State party's domestic legislation in this area, the Committee recommends that the State party include in its next periodic report the texts of relevant domestic legislation, of the Constitution, and of article 3 of the Law of Social Organizations.

434. The Committee expresses its concern at the lack of domestic legislation for the protection of refugees and asylum-seekers and at reported incidents of discrimination against refugees, especially in respect to their access to State social services. The Committee recommends that the State party enact legislation on asylum in accordance with the 1951 Convention relating to the Status of Refugees.

435. The Committee recommends that the State party undertake legislative reform to safeguard the enjoyment, without any discrimination, by all segments of the population of the economic, social and cultural rights listed in article 5 of the Convention.

436. The Committee notes, with interest the statistics on complaints related to human rights violations received by the Office of the Parliamentary Commissioner for Human Rights (Ombudsman). The Committee recommends that the State party include in its next periodic report information on the practical implementation and monitoring of articles 4, 5 and 6 of the Convention, including statistics on racially motivated complaints.

437. While the Committee welcomes the State party's initiative in the field of human rights education, it is of the opinion that the State party's educational programmes to prevent and combat racial discrimination need to be strengthened. In this regard, the Committee recommends that the State party extend its educational programmes in order to raise awareness of the population at large of all aspects related to racial discrimination.

438. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee request that the possibility of such a declaration be considered.

439. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

440. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

441. The Committee recommends that the State party's next periodic report, due on 28 October 2001, be an updating report and that it address the points raised in the present concluding observations.

Y. Thematic discussion on the question of discrimination against Roma

442. The Committee may request, under article 9 of the Convention, that States parties submit further information in addition to the periodic reports that they undertake to submit upon ratification. On the basis of the information received the Committee may make suggestions and general recommendations.

443. In examining the periodic reports of States parties the Committee has found that some forms of racial discrimination are common to several States and can usefully be examined from a more general perspective. An example is discrimination against Roma populations. As a result the Committee decided, at its fifty-sixth session,[4] to hold at its next session a thematic discussion on that issue with a view to possible further action. In this connection, it requested from States parties information about Roma populations residing in their respective territories, the economic and social situation of such populations and policies for eliminating racial discrimination against them.

444. The holding of the thematic discussion adds to the Committee's contributions to the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The thematic discussion, the first to be organized by CERD, was held during the 1422nd to 1424th meetings of the Committee, on 15 and 16 August 2000; it was preceded by an informal meeting with concerned non-governmental organizations on the morning of 15 August 2000.

445. The Committee was able to draw upon extensive information from its own activities, including that contained in periodic reports submitted by States parties and its dialogues with State delegations. In addition, a number of States replied to the invitation extended by the Committee in April 2000 to submit additional information. Information was also received from regional organizations, including reports, studies and recommendations prepared by the Organization for Security and Cooperation in Europe (OSCE) and its High Commissioner on National Minorities, and by the Council of Europe and its European Commission against Racism and Intolerance.[5]

446. In addition, the Committee had relevant information from other United Nations human rights mechanisms, including other treaty bodies, the special procedures of the Commission on Human Rights (in particular the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance), and the Sub-Commission on the Promotion and Protection of Human Rights. The Office of the High Commissioner for Human Rights also submitted the report of the Central and Eastern European regional seminar of experts on the protection of minorities and other vulnerable groups and strengthening human rights capacity at the national level (A/CONF.189/PC.2/2), held in Warsaw from 5 to 7 July 2000.

447. Non-governmental organizations representing the Roma and global human rights organizations also submitted relevant information.

448. During the informal meeting, after an introductory statement by the Chairman of the Committee, non-governmental organizations raised a number of issues of concern. Members of the Committee posed questions to some of the representatives present. During this informal meeting, a statement was also made by the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Glele-Ahanhanzo.

449. At the next meeting, the general debate was opened by the Chairman of the Committee, who called attention to the emerging evidence of similar patterns of discrimination against Roma populations in many States parties to the Convention. In response to the invitation addressed to United Nations human rights mechanisms, bodies and agencies, three members of the Sub-Commission on the Promotion and Protection of Human Rights spoke. The Chairperson, Antoanella Iulia Motoc, drew attention to the many relevant activities of the Sub-Commission, which had long experience in the areas of protection against ethnic discrimination and protection of the rights of minorities. Ashjorn Eide, the Chairperson of the Sub-Commission's Working Group on Minorities, referred to the links between equal enjoyment of human rights without ethnic discrimination and the right of cultural minorities to preserve their cultural identity. Yeung Kam Yeung Sik Yuen, the member of the Sub-Commission entrusted with the preparation of a working paper on the human rights problems and protections of the Roma (E/CN.4/Sub.2/2000/28), presented the preliminary findings of his working paper. In addition, Kirsten Young, the Senior Liaison Officer of the South-Eastern Europe Operation, Bureau for Europe at the Office of the United Nations High Commissioner for Refugees (UNHCR), made a statement focusing in particular on the extreme forms of discrimination currently faced by Roma groups in Kosovo and in neighbouring areas.

450. A comprehensive statement was made by Mr. Diaconu, the convenor of the Committee's open-ended working group on the organization of the thematic discussion. Most Committee members took part in the general debate which continued during the meeting in the morning of 16 August 2000. Issues of particular concern regarding the discrimination experienced by Roma communities explored in the statements of Committee members included:

(a) The need to address the legal status of the Roma (as ethnic groups or ethnic minorities, but also in regard to matters of citizenship, migration or asylum) while respecting their right to express their wishes in this regard;

(b) The inadequate or ineffective implementation of legislation designed to prevent discrimination and provide effective remedies and compensation to victims;

(c) The violent attacks suffered by the Roma and the impunity which is sometimes accorded to the perpetrators of such attacks;

(d) The need for increased political will and leadership, as public authorities (in particular at the local level) are sometimes reluctant to confront the racial prejudices and attitudes of voters by enforcing respect for international human rights norms;

(e) The related need to combat widespread public bias and prejudice, often based on little real knowledge and understanding of the history and culture of the many Roma communities;

(f) The need for increased political participation of Roma communities and for efforts to involve them in planning, adopting and implementing any policies or programmes designed to assist them;

(g) The need to address the severe socio-economic disadvantage experienced by the Roma, including - unequal access to education and the resulting underqualification, which complicates efforts to reduce very high unemployment or employment in the informal sectors of the economy; housing segregation, or placement in isolated camps without access to public services, or the lack of sites and facilities for travelling communities, which compound education and unemployment problems, exposing the Roma to increased prejudice and discrimination; and unacceptable health conditions, from disproportionately higher infant mortality to significantly shorter life expectancy;

(h) The need for increased training and sensitization of public officials, including police and other law enforcement officials, teachers and local authorities, both in the need to respect the right of the Roma to be protected from discrimination and in how to prevent and avoid racial conflict;

(i) The need to pay special attention to the additional problems faced by particular groups, particularly by travelling Roma communities, or by those who are not citizens (migrants, asylum-seekers and refugees) of the States where they reside;

(j) The need to address the double discrimination suffered by many Roma women and girls, who are often subject to gender discrimination within their own community as well as to gender-specific forms of discrimination as Roma;

(k) The need for the international community to act urgently on the unacceptable persecution - amounting to "ethnic cleansing" - to which Roma communities have been subjected in Kosovo;

(l) The need to maintain the delicate balance between the preservation of the culture inority groups and their right to equal and non-discriminatory enjoyment of all human rights.

451. Several members spoke of the need to identify the causes of the prejudices against Roma and maintained that they had to be seen in the context of a triangular relationship involving the Government of the State, the Roma and the non-Roma, or Gaje, population. Finally, the Committee requested that the records of the meetings at which the thematic discussion took place be verbatim.

452. At the end of the general debate, the Deputy High Commissioner for Human Rights addressed the Committee and welcomed its initiative in organizing the thematic discussion. He emphasized the need to monitor continuously the situation of vulnerable groups and to ensure that international strategies were available to offer urgent relief and protection against the widespread human rights violations to which they were subjected. Mr. Ramcharan called attention to the conclusions and recommendations on the "persistence of racism against the Roma" adopted by the Warsaw regional seminar.

453. Based on the information submitted and collected for the thematic discussion and on the outcome of the general debate, the Committee adopted, at its 1424th meeting (CERD/C/SR.1424), on 16 August 2000, its general recommendation XXVII on discrimination against Roma (see annex V, sect. C).

CHAPTER IV. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

454. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. A list of States parties which have recognized the competence of the Committee to consider such communications can be found in annex I B.

455. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

456. The Committee began its work under article 14 of the Convention at its thirtieth session, in 1984. At its thirty-sixth session (August 1988), the Committee adopted its opinion on communication No. 1/1984 (Yilmaz-Dogan v. the Netherlands). At its thirty-ninth session (March 1991), the Committee adopted its opinion on communication No. 2/1989 (Demba Talibe v. France). At its forty-second session (March 1993), the Committee, acting under rule 94, paragraph 7, of its rules of procedure, declared admissible and adopted its opinion on communication No. 4/1991 (L.K. v. the Netherlands). At its forty-fourth session (March 1994), the Committee adopted its opinion on communication No. 3/1991 (Miche L.N. Narrainen v. Norway). During its forty-sixth session (March 1995), the Committee declared inadmissible communication No. 5/1994 (C.P. v. Denmark). At its fifty-first session (August 1997), the Committee declared inadmissible communication No. 7/1995 (Barbaro v. Australia). At its fifty-third session (August 1998), the Committee declared inadmissible communication No. 9/1997 (D.S. v. Sweden). At its fifty-fourth session (March 1999), the Committee adopted its opinions on communications No. 8/1996 (B.M.S. v. Australia) and 10/1997 (Habassi v. Denmark). At its fifty-fifth session (August 1999), the Committee adopted its opinion on communication No. 6/1995 (Z.U.B.S. v. Australia).

457. At its fifty-sixth session (March 2000), the Committee adopted its opinion on communication No. 16/1999 (Kashif Ahmad v. Denmark), which is reproduced in full in annex III A. The communication concerned a Danish citizen of Pakistani origin who alleged he had been the victim of racist insults. He claimed that Denmark had violated the Convention in view of the fact that his case had not been properly examined by the national authorities and he had never obtained sufficient satisfaction or reparation. The Committee found that the author had been denied effective protection against racial discrimination and that the State party had violated article 6 of the Convention. The Committee recommended that the State party ensure that the police and the public prosecutors properly investigate accusations and complaints relating to acts of racial discrimination, which should be punishable by law in accordance with article 4 of the Convention.

458. Also at its fifty-sixth session, the Committee adopted its opinion on communication No. 17/1999 (B.J. v. Denmark), which is also reproduced in full in annex III A. The communication concerned a Danish citizen from Iranian origin who claimed to be the victim of violations of the Convention by Denmark in that he had not received adequate compensation after he had been refused entry to a discotheque on racial grounds. The Committee considered that the alleged facts did not constitute a violation of article 6 of the Convention. However, it recommended that the State party take the necessary measures to ensure that victims of racial discrimination seeking just and adequate reparation or satisfaction, including economic compensation, would have their claims considered with due respect for situations where the discrimination had not resulted in any physical damage but humiliation or similar suffering.

459. The full text of all the opinions and decisions adopted by the Committee under article 14, including those referred to in paragraphs 456 to 458 above is contained in document CERD/C/390.

460. At its fifty-seventh session the Committee adopted its opinion on communication No. 13/1998 (Kopiova v. Slovak Republic), which is reproduced in full in annex III B. Ms. Kopiova claimed to be the victim of violations of the Convention by the Slovak Republic as a result of the resolutions adopted by two municipalities prohibiting citizens of Romani ethnicity to settle in their respective territories. Observing that the resolutions in question were later rescinded, the Committee noted that freedom of movement and residence was guaranteed under article 23 of the Constitution of the Slovak Republic. The Committee recommended that the State party take the necessary measures to ensure that practices restricting the freedom of movement and residence of Romas under its jurisdiction were fully and promptly eliminated.

461. Also at its fifty-seventh session the Committee decided to consider communication 12/1998 (Barbaro v. Australia) inadmissible for lack of exhaustion of domestic remedies. The Committee had already adopted a first decision declaring this communication inadmissible at its fifty-first session (August 1997). The Committee adopted its second decision on admissibility as a result of new facts submitted by the author. The text of that decision is reproduced in full in annex III B.

CHAPTER V CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

462. Under article 15 of the Convention, the Committee on the Elimination of Racial Discrimination is empowered to consider copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the competent bodies of the United Nations, and to submit to them and to the General Assembly its expressions of opinion and recommendations relating to the principles and objectives of the Convention in those territories.

463. At the request of the Committee, Mr. Bossuyt examined the documents made available to the Committee in order for it to perform its functions pursuant to article 15 of the Convention. At the 1411th meeting (fifty-seventh session), Mr. Bossuyt presented his report, in the preparation of which he had taken into account the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples for 1999 (A/54/23) and the working papers on the 17 territories prepared by the Secretariat for the Special Committee and the Trusteeship Council in 1999, listed in Annex IV to the present report.

464. The Committee noted, as it had done in the past, that it had been difficult for it to fulfil its functions under article 15 of the Convention in the absence of any copies of petitions pursuant to article 15, paragraph 2 (a), and since the copies of the reports received pursuant to article 15, paragraph 2 (b), contained scant information directly relating to the principles and objectives of the Convention. Those reports still did not deal specifically with the question of racial discrimination, although they contained sections on general human rights.

465. The Committee was aware that over the years certain States parties had submitted information on the implementation of the Convention in Territories they were administering or which were otherwise under their jurisdiction and to which article 15 also applied. That practice, based on the reporting obligations of States parties pursuant to article 9 of the Convention, must be encouraged and be of a consistent nature. The Committee was mindful, however, that the procedures under article 9 of the Convention should be clearly distinguished from those under article 15.

466. The Committee noted that, in the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, reference was made to the relations between the Special Committee and the Committee and to the Special Committee's continuous monitoring of related developments in Territories, having regard to the relevant provisions of article 15 of the Convention. The Committee further noted, however, that issues concerning racial discrimination and directly

related to the principles and objectives of the Convention, were not reflected in the sections of the report of the Special Committee on review of work and further work of the Special Committee.

467. The Committee wishes to reiterate the following opinions and recommendations:

(a) The Committee has again not received copies of any petitions pursuant to article 15, paragraph 2 (a) of the Convention. If pertinent petitions become available, the Committee requests the Secretary-General that it be provided with copies of these petitions and any other information relevant to the objectives of the Convention and available to him regarding the Territories mentioned in article 15, paragraph 2 (a);

(b) In the materials to be prepared by the Secretariat for the Special Committee and to be made available by the Secretary-General to the Committee on the Elimination of Racial Discrimination pursuant to article 15, paragraph 2 (b), of the Convention, more systematic attention should be given to matters directly related to the principles and objectives of the Convention. The Special Committee is invited to take this concern into account when planning its work;

(c) States parties which are administering Non-Self-Governing Territories or otherwise exercising jurisdiction over Territories are requested to include or to continue to include in their reports to be submitted pursuant to article 9, paragraph 1, relevant information on the implementation of the Convention in all Territories under their jurisdiction.

CHAPTER VI. ACTION TAKEN BY THE GENERAL ASSEMBLY AT ITS FIFTY-FOURTH SESSION

468. At its fifty-sixth and fifty-seventh sessions, the Committee considered the agenda item on action taken by the General Assembly at its fifty-fourth session. For its consideration of this item the Committee had before it the report of the Third Committee on the question of elimination of racism and racial discrimination (A/54/603). According to that report, the General Assembly, in the light of the statement on programme budget implications submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly (A/54/18/Add.1), decided to refer back to the Committee, for further consideration, its decision 4 (55) in which it had requested the General Assembly to take measures in order to implement its decision to hold the fifty-eighth session of the Committee in New York in March 2001.

469. Concerning the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights, the Committee had before it the note by the Secretary-General transmitting to the General Assembly the report of the persons chairing the human rights treaty bodies on their eleventh meeting (A/54/805).

CHAPTER VII SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

A. Reports received by the Committee

470. At its thirty-eighth session, in 1988, the Committee decided to accept the proposal of the States parties that States parties submit a comprehensive report every four years and a brief updating report in the two-year interim. Reports received from 28 August 1999 to 25 August 2000 are listed below in table 1.

Table 1. Reports received during the period under review (28 August 1999-25 August 2000)

State party	Type of report	Date on which the report was due	Document number
Algeria	Thirteenth report Fourteenth report	15 March 1997 15 March 1999	CERD/C/362/Add.6
Austria	Fourteenth report	8 June 1999	CERD/C/362/Add.7
Bangladesh	Seventh report Eighth report Ninth report Tenth report Eleventh report	11 July 1992 11 July 1994 11 July 1996 11 July 1998 11 July 2000	CERD/C/379/Add.1
Czech Republic	Third report Fourth report	1 January 1998 1 January 2000	CERD/C/372/Add.1
Ecuador	Thirteenth report Fourteenth report Fifteenth report	4 January 1994 4 January 1996 4 January 1998	CERD/C/338/Add.13
Georgia	Initial report	2 July 2000	CERD/C/369/Add.1
Germany	Fifteenth report	15 June 1998	CERD/C/338/Add.14
Greece	Twelfth report Thirteenth report Fourteenth report Fifteenth report	18 July 1993 18 July 1995 18 July 1997 18 July 1999	CERD/C/363/Add.4

State party	Type of report	Date on which the report was due	Document number
Iceland	Sixteenth report	4 January 2000	CERD/C/384/Add.1
Italy	Twelfth report	4 February 1999	CERD/C/403/Add.1
	Thirteenth report	4 February 2001	
Japan	Initial report	14 January 1997	CERD/C/350/Add.2
	Second report	14 January 1999	
Morocco	Fourteenth report	17 January 1998	CERD/C/337/Add.6
Norway	Fifteenth report	5 September 1999	CERD/C/363/Add.3
Portugal	Ninth report	23 September 1999	CERD/C/357/Add.1
Slovenia	Initial report	6 July 1993	CERD/C/352/Add.1
	Second report	6 July 1995	
	Third report	6 July 1997	
	Fourth report	6 July 1999	
Sudan	Ninth report	20 April 1994	CERD/C/334/Add.4
	Tenth report	20 April 1996	
	Eleventh report	20 April 1998	
Ukraine	Fifteenth report	6 April 1998	CERD/C/384/Add.2
	Sixteenth report	6 April 2000	
Uzbekistan	Initial report	28 October 1996	CERD/C/327/Add.1
	Second report	28 October 1998	
Viet Nam	Sixth report	9 July 1993	CERD/C/357/Add.2
	Seventh report	9 July 1995	
	Eighth report	9 July 1997	
	Ninth report	9 July 1999	

B Reports not yet received by the Committee

471. Reports which were due before the end of the fifty-seventh session but which have not yet been received are listed below in table 2.

Table 2. Reports due before the closing date of the fifty-seventh session (27 August 1999) but which have not yet been received

State party	Type of report	Date on which the report was due	Number of reminders sent
Afghanistan	Second report	5 August 1986	11
	Third report	5 August 1988	9
	Fourth report	5 August 1990	7
	Fifth report	5 August 1992	6
	Sixth report	5 August 1994	5
	Seventh report	5 August 1996	4
	Eighth report	5 August 1998	2
	Ninth report	5 August 2000	
Albania	Initial report	10 June 1995	4
	Second report	10 June 1997	3
	Third report	10 June 1999	1
Antigua and Barbuda	Initial report	24 November 1989	5
	Second report	24 November 1991	5
	Third report	24 November 1993	4
	Fourth report	24 November 1995	4
	Fifth report	24 November 1997	3
	Sixth report	24 November 1999	1
Argentina	Sixteenth report	4 January 2000	
Armenia	Third report	23 July 1998	2
	Fourth report	23 July 2000	
Bahamas	Fifth report	4 September 1984	13
	Sixth report	4 September 1986	9
	Seventh report	4 September 1988	7
	Eighth report	4 September 1990	7
	Ninth report	4 September 1992	6
	Tenth report	4 September 1994	5
	Eleventh report	4 September 1996	4
	Twelfth report	4 September 1998	2

State party	Type of report	Date on which the report was due	Number of reminders sent
Barbados	Eighth report	8 December 1987	8
	Ninth report	8 December 1989	8
	Tenth report	8 December 1991	6
	Eleventh report	8 December 1993	4
	Twelfth report	8 December 1995	4
	Thirteenth report	8 December 1997	2
	Fourteenth report	8 December 1999	1
Belarus	Fifteenth report	8 May 1998	2
	Sixteenth report	8 May 2000	1
Belgium	Eleventh report	6 September 1996	4
	Twelfth report	6 September 1998	2
Bolivia	Thirteenth report	22 October 1995	4
	Fourteenth report	22 October 1997	3
	Fifteenth report	22 October 1999	1
Bosnia and Herzegovina*	Initial report	16 July 1994	4
	Second report	16 July 1996	4
	Third report	16 July 1998	2
	Fourth report	16 July 2000	1
Botswana	Sixth report	22 March 1985	12
	Seventh report	22 March 1987	9
	Eighth report	22 March 1989	7
	Ninth report	22 March 1991	6
	Tenth report	22 March 1993	4
	Eleventh report	22 March 1995	4
	Twelfth report	22 March 1997	3
	Thirteenth report	22 March 1999	1
Brazil	Fourteenth report	4 January 1996	4
	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Bulgaria	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Burkina Faso	Twelfth report	17 August 1997	3
	Thirteenth report	17 August 1999	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Burundi	Eleventh report	26 November 1998	2
Cambodia	Eighth report	28 December 1998	1
Cameroon	Fourteenth report	24 July 1998	2
	Fifteenth report	24 July 2000	1
Canada	Thirteenth report	13 November 1995	4
	Fourteenth report	13 November 1997	3
	Fifteenth report	13 November 1999	1
Cape Verde	Third report	2 November 1984	13
	Fourth report	2 November 1986	10
	Fifth report	2 November 1988	8
	Sixth report	2 November 1990	7
	Seventh report	2 November 1992	5
	Eighth report	2 November 1994	5
	Ninth report	2 November 1996	4
	Tenth report	2 November 1998	2
Central African Republic	Eighth report	15 April 1986	11
	Ninth report	15 April 1988	9
	Tenth report	15 April 1990	9
	Eleventh report	15 April 1992	6
	Twelfth report	15 April 1994	5
	Thirteenth report	15 April 1996	4
	Fourteenth report	15 April 1998	2
	Fifteenth report	15 April 2000	1
Chad	Tenth report	16 September 1996	4
	Eleventh report	16 September 1998	2
China	Eighth report	28 January 1997	3
	Ninth report	28 January 1999	1
Congo	Initial report	10 August 1989	5
	Second report	10 August 1991	5
	Third report	10 August 1993	4
	Fourth report	10 August 1995	4
	Fifth report	10 August 1997	3
	Sixth report	10 August 1999	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Costa Rica	Sixteenth report	4 January 2000	
Côte d'Ivoire	Fifth report	3 February 1982	18
	Sixth report	3 February 1984	14
	Seventh report	3 February 1986	10
	Eighth report	3 February 1988	7
	Ninth report	3 February 1990	7
	Tenth report	3 February 1992	6
	Eleventh report	3 February 1994	5
	Twelfth report	3 February 1996	4
	Thirteenth report	3 February 1998	2
	Fourteenth report	3 February 2000	1
Croatia	Fourth report	8 October 1998	2
Cuba	Fourteenth report	16 March 1999	1
Cyprus	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Democratic Republic of the Congo	Eleventh report	21 May 1997	3
	Twelfth report	21 May 1999	1
Dominican Republic	Ninth report	24 June 2000	
Egypt	Thirteenth report	4 January 1994	4
	Fourteenth report	4 January 1996	4
	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
El Salvador	Ninth report	30 December 1996	3
	Tenth report	30 December 1998	1
Ethiopia	Seventh report	23 July 1989	5
	Eighth report	23 July 1991	5
	Ninth report	23 July 1993	4
	Tenth report	23 July 1995	4
	Eleventh report	23 July 1997	3
	Twelfth report	23 July 1999	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Fiji	Sixth report	10 February 1984	13
	Seventh report	10 February 1986	9
	Eighth report	10 February 1988	7
	Ninth report	10 February 1990	7
	Tenth report	10 February 1992	6
	Eleventh report	10 February 1994	5
	Twelfth report	10 February 1996	4
	Thirteenth report	10 February 1998	2
	Fourteenth report	10 February 2000	1
Gabon	Tenth report	30 March 1999	1
Gambia	Second report	28 January 1982	18
	Third report	28 January 1984	14
	Fourth report	28 January 1986	10
	Fifth report	28 January 1988	7
	Sixth report	28 January 1990	7
	Seventh report	28 January 1992	6
	Eighth report	28 January 1994	5
	Ninth report	28 January 1996	4
	Tenth report	28 January 1998	3
	Eleventh report	28 January 2000	1
Ghana	Sixteenth report	4 January 2000	
Guatemala	Eighth report	17 February 1998	2
	Ninth report	17 February 2000	1
Guinea	Twelfth report	13 April 2000	
Guyana	Initial report	17 March 1978	25
	Second report	17 March 1980	21
	Third report	17 March 1982	17
	Fourth report	17 March 1984	12
	Fifth report	17 March 1986	10
	Sixth report	17 March 1988	7
	Seventh report	17 March 1990	7
	Eighth report	17 March 1992	6
	Ninth report	17 March 1994	5
	Tenth report	17 March 1996	4
	Eleventh report	17 March 1998	2
	Twelfth report	17 March 2000	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Haiti	Fourteenth report	18 January 2000	
Holy See	Sixteenth report	31 May 2000	
Hungary	Fourteenth report	4 January 1996	4
	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
India	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Indonesia	Initial report	25 July 2000	
Iran (Islamic Republic of)	Sixteenth report	4 January 2000	
Iraq	Fifteenth report	13 February 1999	1
Israel	Tenth report	2 February 1998	2
	Eleventh report	2 February 2000	1
Jamaica	Eighth report	4 July 1986	11
	Ninth report	4 July 1988	9
	Tenth report	4 July 1990	9
	Eleventh report	4 July 1992	6
	Twelfth report	4 July 1994	5
	Thirteenth report	4 July 1996	4
	Fourteenth report	4 July 1998	2
	Fifteenth report	4 July 2000	1
Jordan	Thirteenth report	29 June 1999	1
Kazakhstan	Initial report	25 September 1999	1
Kuwait	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Lao People's Democratic Republic	Sixth report	24 March 1985	11
	Seventh report	24 March 1987	8
	Eighth report	24 March 1989	7
	Ninth report	24 March 1991	5
	Tenth report	24 March 1993	4
	Eleventh report	24 March 1995	4
	Twelfth report	24 March 1997	3
	Thirteenth report	24 March 1999	1
Latvia	Fourth report	14 May 1999	1
Lebanon	Fourteenth report	12 December 1998	1
Liberia	Initial report	5 December 1977	25
	Second report	5 December 1979	21
	Third report	5 December 1981	17
	Fourth report	5 December 1983	14
	Fifth report	5 December 1985	10
	Sixth report	5 December 1987	7
	Seventh report	5 December 1989	7
	Eighth report	5 December 1991	6
	Ninth report	5 December 1993	5
	Tenth report	5 December 1995	4
	Eleventh report	5 December 1997	2
	Twelfth report	5 December 1999	1
Libyan Arab Jamahiriya	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Lithuania	Initial report	9 January 2000	1
Luxembourg	Tenth report	31 May 1997	3
	Eleventh report	31 May 1999	1
Madagascar	Tenth report	9 March 1988	8
	Eleventh report	9 March 1990	8
	Twelfth report	9 March 1992	5
	Thirteenth report	9 March 1994	4
	Fourteenth report	9 March 1996	4
	Fifteenth report	9 March 1998	2
	Sixteenth report	9 March 2000	1
Malawi	Initial report	11 July 1997	3
	Second report	11 July 1999	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Maldives	Fifth report	24 May 1993	4
	Sixth report	24 May 1995	4
	Seventh report	24 May 1997	3
	Eighth report	24 May 1999	1
Mali	Seventh report	15 August 1987	8
	Eighth report	15 August 1989	8
	Ninth report	15 August 1991	6
	Tenth report	15 August 1993	4
	Eleventh report	15 August 1995	4
	Twelfth report	15 August 1997	3
	Thirteenth report	15 August 1999	1
Malta	Fifteenth report	26 June 2000	
Mauritania	Sixth report	12 January 2000	
Mexico	Twelfth report	22 March 1998	2
	Thirteenth report	22 March 2000	1
Monaco	Initial report	27 October 1996	2
	Second report	27 October 1998	1
Mozambique	Second report	18 May 1986	11
	Third report	18 May 1988	9
	Fourth report	18 May 1990	9
	Fifth report	18 May 1992	6
	Sixth report	18 May 1994	5
	Seventh report	18 May 1996	4
	Eighth report	18 May 1998	2
	Ninth report	18 May 2000	1
Namibia	Eighth report	11 December 1997	2
	Ninth report	11 December 1999	1
Nepal	Fifteenth report	1 March 2000	

State party	Type of report	Date on which the report was due	Number of reminders sent
New Zealand	Twelfth report	22 December 1998	4
	Thirteenth report	22 December 1997	2
	Fourteenth report	22 December 1999	1
Nicaragua	Tenth report	17 March 1997	3
	Eleventh report	17 March 1999	1
Niger	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Nigeria	Fourteenth report	4 January 1996	4
	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Pakistan	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Panama	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Papua New Guinea	Second report	26 February 1985	12
	Third report	26 February 1987	9
	Fourth report	26 February 1989	7
	Fifth report	26 February 1991	6
	Sixth report	26 February 1993	4
	Seventh report	26 February 1995	4
	Eighth report	26 February 1997	3
	Ninth report	26 February 1999	1
Peru	Fourteenth report	29 October 1998	2
Philippines	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Poland	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Qatar	Ninth report	21 August 1993	4
	Tenth report	21 August 1995	4
	Eleventh report	21 August 1997	3
	Twelfth report	21 August 1999	1
Republic of Korea	Eleventh report	4 January 2000	

State party	Type of report	Date on which the report was due	Number of reminders sent
Republic of Moldova	Initial report	25 February 1994	4
	Second report	25 February 1996	4
	Third report	25 February 1998	2
	Fourth report	25 February 2000	1
Russian Federation	Fifteenth report	6 March 1998	2
	Sixteenth report	6 March 2000	1
Rwanda	Thirteenth report	16 May 2000	
Saint Lucia	Initial report	16 March 1991	5
	Second report	16 March 1993	5
	Third report	16 March 1995	4
	Fourth report	16 March 1997	3
	Fifth report	16 March 1999	1
Saint Vincent and the Grenadines	Second report	9 December 1984	12
	Third report	9 December 1986	9
	Fourth report	9 December 1988	7
	Fifth report	9 December 1990	6
	Sixth report	9 December 1992	4
	Seventh report	9 December 1994	4
	Eighth report	9 December 1996	3
	Ninth report	9 December 1998	1
Saudi Arabia	Initial report	22 October 1998	2
Senegal	Eleventh report	19 May 1993	4
	Twelfth report	19 May 1995	4
	Thirteenth report	19 May 1997	3
	Fourteenth report	19 May 1999	1
Seychelles	Sixth report	6 April 1989	5
	Seventh report	6 April 1991	5
	Eighth report	6 April 1993	4
	Ninth report	6 April 1995	4
	Tenth report	6 April 1997	3
	Eleventh report	6 April 1999	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Sierra Leone	Fourth report	4 January 1976	28
	Fifth report	4 January 1978	24
	Sixth report	4 January 1980	22
	Seventh report	4 January 1982	18
	Eighth report	4 January 1984	14
	Ninth report	4 January 1986	10
	Tenth report	4 January 1988	7
	Eleventh report	4 January 1990	7
	Twelfth report	4 January 1992	6
	Thirteenth report	4 January 1994	5
	Fourteenth report	4 January 1996	4
	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
	Supplementary	31 March 1975	1
Slovakia	Fourth report	28 May 2000	
Solomon Islands	Second report	16 April 1985	12
	Third report	16 April 1987	9
	Fourth report	16 April 1989	7
	Fifth report	16 April 1991	6
	Sixth report	16 April 1993	4
	Seventh report	16 April 1995	4
	Eighth report	16 April 1997	3
	Ninth report	16 April 1999	1
Somalia	Fifth report	25 September 1984	13
	Sixth report	25 September 1986	10
	Seventh report	25 September 1988	8
	Eighth report	25 September 1990	7
	Ninth report	25 September 1992	6
	Tenth report	25 September 1994	5
	Eleventh report	25 September 1996	4
	Twelfth report	25 September 1998	2
South Africa	Initial report	9 January 2000	
Spain	Sixteenth report	4 January 2000	
Sri Lanka	Seventh report	20 March 1995	4
	Eighth report	20 March 1997	3
	Ninth report	20 March 1999	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Sudan	Twelfth report	20 April 2000	
Suriname	Initial report	14 April 1985	12
	Second report	14 April 1987	9
	Third report	14 April 1989	7
	Fourth report	14 April 1991	6
	Fifth report	14 April 1993	4
	Sixth report	14 April 1995	4
	Seventh report	14 April 1997	3
	Eighth report	14 April 1999	1
Swaziland	Fifteenth report	7 May 1998	2
	Sixteenth report	7 May 2000	1
Switzerland	Second report	29 December 1997	1
	Third report	29 December 1999	
Syrian Arab Republic	Sixteenth report	21 May 2000	
Tajikistan	Initial report	10 February 1996	4
	Second report	10 February 1998	2
	Third report	10 February 2000	1
The former Yugoslav Republic of Macedonia	Fourth report	17 September 1998	1
Togo	Sixth report	1 October 1983	14
	Seventh report	1 October 1985	10
	Eighth report	1 October 1987	7
	Ninth report	1 October 1989	7
	Tenth report	1 October 1991	6
	Eleventh report	1 October 1993	5
	Twelfth report	1 October 1995	4
	Thirteenth report	1 October 1997	3
	Fourteenth report	1 October 1999	1
Trinidad and Tobago	Eleventh report	3 November 1994	4
	Twelfth report	3 November 1996	4
	Thirteenth report	3 November 1998	2

State party	Type of report	Date on which the report was due	Number of reminders sent
Tunisia	Thirteenth report	4 January 1994	4
	Fourteenth report	4 January 1996	4
	Fifteenth report	4 January 1998	2
	Sixteenth report	4 January 2000	1
Turkmenistan	Initial report	29 October 1995	4
	Second report	29 October 1997	3
	Third report	29 October 1999	1
Uganda	Second report	21 December 1983	14
	Third report	21 December 1985	10
	Fourth report	21 December 1987	8
	Fifth report	21 December 1989	7
	Sixth report	21 December 1991	6
	Seventh report	21 December 1993	5
	Eighth report	21 December 1995	4
	Ninth report	21 December 1997	2
	Tenth report	21 December 1999	1
United Arab Emirates	Twelfth report	20 July 1997	3
	Thirteenth report	20 July 1999	1
United Kingdom of Great Britain and Northern Ireland	Sixteenth report	6 April 2000	
United Republic of Tanzania	Eighth report	26 November 1987	8
	Ninth report	26 November 1989	8
	Tenth report	26 November 1991	5
	Eleventh report	26 November 1993	4
	Twelfth report	26 November 1995	4
	Thirteenth report	26 November 1997	3
	Fourteenth report	26 November 1999	1
United States of America	Initial report	20 November 1995	4
	Second report	20 November 1997	3
	Third report	20 November 1999	1
Uruguay	Sixteenth report	4 January 2000	
Venezuela	Fourteenth report	4 January 1996	3
	Fifteenth report	4 January 1998	1
	Sixteenth report	4 January 2000	

State party	Type of report	Date on which the report was due	Number of reminders sent
Yemen	Eleventh report	17 November 1993	4
	Twelfth report	17 November 1995	4
	Thirteenth report	17 November 1997	3
	Fourteenth report	17 November 1999	1
Yugoslavia[b]	Fifteenth report	4 January 1998	1
	Sixteenth report	4 January 2000	
Zambia	Twelfth report	5 March 1995	4
	Thirteenth report	5 March 1997	3
	Fourteenth report	5 March 1999	1
Zimbabwe	Fifth report	12 June 2000	

[a] For a report submitted in compliance with a special decision of the Committee taken at its forty-second session (1993), see CERD/C/247.

[b] For a report submitted in compliance with a special decision of the Committee taken at its fifty-third session (1998), see CERD/C/364.

C. Action taken by the Committee to ensure submission of reports by States parties

472. At its fifty-sixth and fifty-seventh sessions, the Committee reviewed the question of delays in the submission, and non-submission, of reports by States parties in accordance with their obligations under article 9 of the Convention.

473. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that that review would be based on the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that States parties whose initial reports were overdue by five years or more would also be scheduled for a review of implementation of the provisions of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider as an initial report all information submitted by the State party to other United Nations bodies or, in the absence of such material, reports and information prepared by United Nations bodies.

474. At its fifty-fifth session, the Committee decided to schedule at its fifty-sixth session a review of the implementation of the provisions of the Convention in the following States parties whose periodic reports were seriously overdue: Bangladesh, Greece, Qatar and Viet Nam. It also decided to schedule a review of the implementation of the provisions of the Convention in one State party, Slovenia, whose initial report was seriously overdue. A report was subsequently submitted by Bangladesh, Greece, Slovenia and Viet Nam. In the case of Qatar, the review was postponed at the request of the State party, which indicated its intention to submit the requested reports shortly.

475. The Committee again requested the Secretary-General to continue sending reminders automatically to those States parties whose reports were overdue.

CHAPTER VIII. THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

476. The Committee considered the question of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Third Decade to Combat Racism and Racial Discrimination at its fifty-sixth and fifty-seventh sessions.

477. For the consideration of this item, the Committee had before it the following documents:

(a) General Assembly resolution 54/154, entitled "Third Decade to Combat Racism and Racial Discrimination and the convening of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance";

(b) Commission on Human Rights resolution 2000/14, entitled "Racism, racial discrimination, xenophobia and related intolerance";

(c) Report of the Secretary-General on the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (A/54/299);

(d) Report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1999/78 (E/CN.4/2000/15);

(e) Report by Mr. Maurice Glèlè-Ahanhanzo, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, submitted pursuant to Commission on Human Rights resolution 1999/78 (E/CN.4/2000/16 and Add.1);

(f) Report of the Preparatory Committee for the World Conference against Racism, Racial Discrimination and Related Intolerance on its first session (A/CONF.189/PC.1/21).

478. In the Committee's discussion of the preparations for the forthcoming World Conference against Racism, it was stressed that the Committee should continue to be actively involved. During the fifty-sixth session the Committee discussed the composition of the contact group which had been previously established in order to collect information on the preparations for the Conference and make suggestions as to the Committee's contribution thereto. The Committee decided that Ms. McDougall and Mr. Yutzis should continue to be members of the contact group and appointed Ms. January-Bardill as its third member. It also decided that the Chairman and Mr. Yutzis would represent the Committee at the first session of the Preparatory Committee for the World Conference.

479. At its fifty-seventh session (1409th meeting), Mr. Yutzis submitted to the Committee the report of the contact group on the first session of the Preparatory Committee, as well as a discussion paper containing recommendations for the Committee's contribution to the World Conference. Also at the fifty-seventh session, the Committee began preparation of a further contribution to the Conference, to be finalized in 2001.

CHAPTER IX. OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE

480. An overview of the methods of work of the Committee was included in its report to the fifty-first session of the General Assembly.[8] It highlighted changes introduced in recent years and was designed to make the Committee's procedures more transparent and accessible to both States parties and the public. Since no material changes have occurred in the Committee's methods of work in the intervening time, the reader is invited to consult the overview contained in that previous report to the General Assembly.

Notes

[1] See Official Records of the International Convention on the Elimination of All Forms of Racial Discrimination, Eighteenth Meeting of States Parties, Decisions (CERD/SP/61 and CERD/SP/62).

[2] Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18 (A/87/18), chap. IX, sect. B.

[3] Ibid., Forty-eighth session, Supplement No. 18 (A/48/18), annex III.

[4] See CERD/C/SR.1399.

[5] The list of States parties and intergovernmental organizations which submitted information in response to the Committee's invitation is given in annex VIII.

[6] For a list of non-governmental organizations which took part in the informal meeting, see annex IX.

[7] For a detailed record of the statements made by the participants during the general debate, see CERD/C/SR.1422 and 1423.

[8] Official Records of the General Assembly, Fifty-first Session, Supplement No. 18 (A/51/18), paras. 587-627.

Annex I

STATUS OF THE CONVENTION

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination* (156), as at 25 August 2000

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Afghanistan	6 July 1983[a]	5 August 1983
Albania	11 May 1994[a]	10 June 1994
Algeria	14 February 1972	15 March 1972
Antigua and Barbuda	25 October 1988[a]	24 November 1988
Argentina	2 October 1968	4 January 1969
Armenia	23 June 1993[a]	23 July 1993
Australia	30 September 1975	30 October 1975
Austria	9 May 1972	8 June 1972
Azerbaijan	16 August 1996[a]	15 September 1996
Bahamas	5 August 1975[b]	4 September 1975
Bahrain	27 March 1990[a]	26 April 1990
Bangladesh	11 June 1979[a]	11 July 1979
Barbados	8 November 1972[a]	8 December 1972
Belarus	8 April 1969	8 May 1969
Belgium	7 August 1975	6 September 1975
Bolivia	22 September 1970	22 October 1970
Bosnia and Herzegovina	16 July 1993[b]	16 July 1993
Botswana	20 February 1974[a]	22 March 1974
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Burkina Faso	18 July 1974[a]	17 August 1974
Burundi	27 October 1977	26 November 1977
Cambodia	28 November 1983	28 December 1983
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	13 November 1970

* The following States have signed but not ratified the Convention: Benin, Bhutan, Grenada, Ireland, Turkey.

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Cape Verde	3 October 1979[a]	2 November 1979
Central African Republic	16 March 1971	15 April 1971
Chad	17 August 1977[a]	16 September 1977
Chile	20 October 1971	19 November 1971
China	29 December 1981[a]	28 January 1982
Colombia	2 September 1981	2 October 1981
Congo	11 July 1988[a]	10 August 1988
Costa Rica	16 January 1967	4 January 1969
Côte d'Ivoire	4 January 1973[a]	3 February 1973
Croatia	12 October 1992[b]	8 October 1991
Cuba	15 February 1972	16 March 1972
Cyprus	21 April 1967	4 January 1969
Czech Republic	22 February 1993[b]	1 January 1993
Democratic Republic of the Congo	21 April 1976[a]	21 May 1976
Denmark	9 December 1971	8 January 1972
Dominican Republic	25 May 1983[a]	24 June 1983
Ecuador	22 September 1966[a]	4 January 1969
Egypt	1 May 1967	4 January 1969
El Salvador	30 November 1979[a]	30 December 1979
Estonia	21 October 1991[a]	20 November 1991
Ethiopia	23 June 1976[a]	23 July 1976
Fiji	11 January 1973[b]	10 February 1973
Finland	14 July 1970	13 August 1970
France	28 July 1971[a]	27 August 1971
Gabon	29 February 1980	30 March 1980
Gambia	29 December 1978[a]	28 January 1979
Georgia	2 June 1999[a]	2 July 1999
Germany	16 May 1969	15 June 1969
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Guatemala	18 January 1983	17 February 1983
Guinea	14 March 1977	13 April 1977
Guyana	15 February 1977	17 March 1977
Haiti	19 December 1972	18 January 1973
Holy See	1 May 1969	31 May 1969

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Hungary	1 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Indonesia	25 June 1999[a]	25 July 1999
Iran (Islamic Republic of)	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Israel	3 January 1979	2 February 1979
Italy	5 January 1976	4 February 1976
Jamaica	4 June 1971	4 July 1971
Japan	15 December 1995	14 January 1996
Jordan	30 May 1974[a]	29 June 1974
Kazakhstan	26 August 1998[a]	25 September 1998
Kuwait	15 October 1968[a]	4 January 1969
Kyrgyzstan	5 September 1997	5 October 1997
Lao People's Democratic Republic	22 February 1974[a]	24 March 1974
Latvia	14 April 1992[a]	14 May 1992
Lebanon	12 November 1971[a]	12 December 1971
Lesotho	4 November 1971[a]	4 December 1971
Liberia	5 November 1976[a]	5 December 1976
Libyan Arab Jamahiriya	3 July 1968[a]	4 January 1969
Liechtenstein	1 March 2000[a]	31 March 2000
Lithuania	10 December 1998	9 January 1999
Luxembourg	1 May 1978	31 May 1978
Madagascar	7 February 1969	9 March 1969
Malawi	11 June 1996[a]	11 July 1996
Maldives	24 April 1984[a]	24 May 1984
Mali	16 July 1974[a]	15 August 1974
Malta	27 May 1971	26 June 1971
Mauritania	13 December 1988	12 January 1989
Mauritius	30 May 1972[a]	29 June 1972
Mexico	20 February 1975	22 March 1975
Monaco	27 September 1995	27 October 1995
Mongolia	6 August 1969	5 September 1969
Morocco	18 December 1970	17 January 1971
Mozambique	18 April 1983[a]	18 May 1983

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Namibia	11 November 1982[a]	11 December 1982
Nepal	30 January 1971[a]	1 March 1971
Netherlands	10 December 1971	9 January 1972
New Zealand	22 November 1972	22 December 1972
Nicaragua	15 February 1978[a]	17 March 1978
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967[a]	4 January 1969
Norway	6 August 1970	5 September 1970
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Papua New Guinea	27 January 1982[a]	26 February 1982
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Portugal	24 August 1982[a]	23 September 1982
Qatar	22 July 1976[a]	21 August 1976
Republic of Korea	5 December 1978[a]	4 January 1979
Republic of Moldova	26 January 1993[a]	25 February 1993
Romania	15 September 1970[a]	15 October 1970
Russian Federation	4 February 1969	6 March 1969
Rwanda	16 April 1975[a]	16 May 1975
Saint Lucia	14 February 1990[b]	16 March 1990
Saint Vincent and the Grenadines	9 November 1981[a]	9 December 1981
Saudi Arabia	22 September 1997	22 October 1997
Senegal	19 April 1972	19 May 1972
Seychelles	7 March 1978[a]	6 April 1978
Sierra Leone	2 August 1967	4 January 1969
Slovakia	28 May 1993[b]	28 May 1993
Slovenia	6 July 1992[b]	6 July 1992
Solomon Islands	17 March 1982[b]	16 April 1982
Somalia	26 August 1975	25 September 1975
South Africa	10 December 1998	9 January 1999
Spain	13 September 1968[a]	4 January 1969
Sri Lanka	18 February 1982[a]	20 March 1982
Sudan	21 March 1977[a]	20 April 1977

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Suriname	15 March 1984[b]	14 April 1984
Swaziland	7 April 1969[a]	7 May 1969
Sweden	6 December 1971	5 January 1972
Switzerland	29 November 1994[a]	29 December 1994
Syrian Arab Republic	21 April 1969[a]	21 May 1969
Tajikistan	11 January 1995[a]	10 February 1995
The former Yugoslav Republic of Macedonia	18 January 1994[b]	17 September 1991
Togo	1 September 1972[a]	1 October 1972
Tonga	16 February 1972[a]	17 March 1972
Trinidad and Tobago	4 October 1973	3 November 1973
Tunisia	13 January 1967	4 January 1969
Turkmenistan	29 September 1994[a]	29 October 1994
Uganda	21 November 1980[a]	21 December 1980
Ukraine	7 March 1969	6 April 1969
United Arab Emirates	20 June 1974[a]	20 July 1974
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
United Republic of Tanzania	27 October 1972[a]	26 November 1972
United States of America	21 October 1994	20 November 1994
Uruguay	30 August 1968	4 January 1969
Uzbekistan	28 September 1995[a]	28 October 1995
Venezuela	10 October 1967	4 January 1969
Viet Nam	9 June 1982[a]	9 July 1982
Yemen	18 October 1972[a]	17 November 1972
Yugoslavia	2 October 1967	4 January 1969
Zambia	4 February 1972	5 March 1972
Zimbabwe	13 May 1991[a]	12 June 1991

---

[a] Accession.

[b] Date of receipt of notification of succession.

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (30), as at 25 August 2000

State party	Date of deposit of the declaration	Effective date
Algeria	12 September 1989	12 September 1989
Australia	28 January 1993	28 January 1993
Bulgaria	12 May 1993	12 May 1993
Chile	18 May 1994	18 May 1994
Costa Rica	8 January 1974	8 January 1974
Cyprus	30 December 1993	30 December 1993
Denmark	11 October 1985	11 October 1985
Ecuador	18 March 1977	18 March 1977
Finland	16 November 1994	16 November 1994
France	16 August 1982	16 August 1982
Hungary	13 September 1990	13 September 1990
Iceland	10 August 1981	10 August 1981
Italy	5 May 1978	5 May 1978
Luxembourg	22 July 1996	22 July 1996
Malta	16 December 1998	16 December 1998
Netherlands	10 December 1971	9 January 1972
Norway	23 January 1976	23 January 1976
Peru	27 November 1984	27 November 1984
Poland	1 December 1999	1 December 1999
Portugal	2 March 2000	2 March 2000
Republic of Korea	5 March 1997	5 March 1997
Russian Federation	1 October 1991	1 October 1991
Senegal	3 December 1982	3 December 1982
Slovakia	17 March 1995	17 March 1995
South Africa	9 January 1999	9 January 1999
Spain	13 January 1998	13 January 1998
Sweden	6 December 1971	5 January 1972
The former Yugoslav Republic of Macedonia	22 December 1999	22 December 1999
Ukraine	28 July 1992	28 July 1992
Uruguay	11 September 1972	11 September 1972

C. States parties that have accepted the amendments to the Convention adopted at the fourteenth meeting of States parties* (27), as at 25 August 2000

State party	Date acceptance received
Australia	15 October 1993
Bahamas	31 March 1994
Bahrain	29 June 2000
Bulgaria	2 March 1995
Burkina Faso	9 August 1993
Canada	8 February 1995
Colombia	5 October 1999
Cuba	21 November 1996
Cyprus	29 July 1997
Denmark	3 September 1993
Finland	9 February 1994
France	1 September 1994
Germany	15 January 1996
Liechtenstein	28 April 2000
Mexico	16 September 1996
Netherlands (for the Kingdom in Europe and the Netherlands Antilles and Aruba)	24 January 1995
New Zealand	8 October 1993
Norway	6 October 1993
Republic of Korea	30 November 1993
Seychelles	23 July 1993
Sweden	14 May 1993
Switzerland	16 December 1996
Syrian Arab Republic	25 February 1998
Trinidad and Tobago	23 August 1993
Ukraine	17 June 1994
United Kingdom of Great Britain and Northern Ireland	7 February 1994
Zimbabwe	10 April 1997

* For the amendments to enter into force, acceptance must be received from two thirds of the States parties to the Convention.

Annex II

AGENDAS OF THE FIFTY-SIXTH AND FIFTY-SEVENTH SESSIONS

A. Fifty-sixth session

1. Solemn declaration by the newly elected members of the Committee under rule 14 of the rules of procedure.

2. Approval by the Committee of the expert appointed by a State party to fill a casual vacancy.

3. Election of officers.

4. Adoption of the agenda.

5. Organizational and other matters.

6. Prevention of racial discrimination, including early warning measures and urgent action procedures.

7. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

8. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

9. Action by the General Assembly at its fifty-fourth session:

   (a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention;

   (b) Effective implementation of international instruments on human rights.

10. Consideration of communications under article 14 of the Convention.

11. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories in which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

12. Third Decade to Combat Racism and Racial Discrimination; World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

Fifty-seventh session

1. Adoption of the agenda.

2. Organizational and other matters.

3. Prevention of racial discrimination, including early warning measures and urgent action procedures.

4. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

5. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

6. Action by the General Assembly at its fifty-fourth session:

   (a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention;

   (b) Effective implementation of international instruments on human rights.

7. Consideration of communications under article 14 of the Convention.

8. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

9. Third Decade to Combat Racism and Racial Discrimination; World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

10. Report of the Committee to the General Assembly at its fifty-fifth session under article 9, paragraph 2, of the Convention.

Annex III

DECISIONS OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION UNDER ARTICLE 14 OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

A. Fifty-sixth session

Opinion concerning communication No. 16/1999

Submitted by: Kashif Ahmad (represented by legal counsel)

Alleged victim: The author

State party concerned: Denmark

Date of communication: 28 May 1999 (initial submission)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 13 March 2000,

Having concluded its consideration of communication No. 16/1999, submitted to the Committee under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Having taken into consideration all written information made available to it by the author and the State party,

Bearing in mind rule 95 of its rules of procedure requiring it to formulate its opinion on the communication before it,

Adopts the following:

Opinion

1.1 The author of the communication is Kashif Ahmad, a Danish citizen of Pakistani origin born in 1980 who claims to be a victim of violations by Denmark of article 2, subparagraph 1 (d), and article 6 of the Convention. He is represented by counsel.

1.2 In conformity with article 14, paragraph 6 (a), of the Convention, the Committee transmitted the communication to the State party on 27 August 1999.

The facts as submitted by the author

2.1 On 16 June 1998 family members and friends had come to meet pupils after the examinations at the Avedore Gymnasium, Hvidovre, as is the usual practice in Danish high schools. The author and his brother were waiting with a video camera outside a room, where a friend of theirs was taking an examination. While they were waiting, a teacher, Mr. K.P., asked them to leave. Since they refused, the teacher informed the headmaster, Mr. O.T., who immediately called the police. Mr. O.T. publicly referred to the author and his brother as "a bunch of monkeys". When the author told Mr. O.T. that he was going to complain about the manner in which he had been treated, Mr. K.P. expressed doubts about the effectiveness of such a complaint and said that the author and his brother were "a bunch of monkeys" who could not express themselves correctly. When the police arrived, the author and his friends discussed the matter with them. The police promised to have a discussion with Mr. O.T.

2.2 The same day the author received a letter in which Mr. O.T. informed him that he did not want him to be present at the official celebration to be held at the school on 19 June 1998, in the course of which the author was going to receive his diploma. On 17 June 1998, the author's father went to the Avedore Gymnasium in order to discuss the matter with Mr. O.T. Mr. O.T. first refused to receive him and when he finally accepted, told him that the matter had been settled and asked him to leave. Subsequently, the author learned from one of the employees at the school that Mr. O.T. had given instructions to the door guards not to let him in.

2.3 By letter dated 25 June 1998, counsel informed Mr. O.T. that the matter was a serious one and that the expressions he had used against the author amounted to a violation of section 266b of the Danish Penal Code. Counsel also requested an explanation and an apology for his client. Mr. O.T. replied that the author and his brother had been noisy outside the examination rooms but he did not deny having used the racist expression referred to above.

2.4 Counsel filed a complaint with the police of Hvidovre on 7 July 1998. By letter dated 23 September 1998 the police informed him that they had interviewed Mr. O.T. and Mr. K.P. and concluded that the expression used was outside the scope of section 266b of the Penal Code and that the case would be discontinued in accordance with section 749, subparagraph 2, of the Danish Administration of Justice Act. In the letter, it was also stated that the expression used had to be seen in the context of a tense incident. In the opinion of the police, it should not be understood as insulting or degrading in terms of race, colour, national or ethnic origin, since it could also be used of persons of Danish origin who behaved as the author had.

2.5 By letter dated 1 October 1998 counsel requested the police to have the case brought before the State Attorney. On 30 November 1998 the State Attorney upheld the decision of the police.

2.6 Counsel claims that, in accordance with section 101 of the Administration of Justice Act, a decision by the State Attorney relating to an investigation by a police department cannot be appealed to other authorities. As questions relating to the pursuance by the police of charges against individuals are entirely up to the discretion of the police, there is no possibility of

bringing the case before a court. Furthermore, legal action by the author against Mr. O.T. and Mr. K.P. would not be effective, taking into account that the police of Hvidovre and the State Attorney had rejected the author's complaints.

2.7 Counsel further contends that the High Court of the Eastern Circuit, in a decision of 5 February 1999, held the view that an incident of racial discrimination did not in itself imply a violation of the honour and reputation of a person under section 26 of the Danish Act on Tort. According to counsel, the position of the High Court, as a result of that decision, is that racial discrimination carried out politely would not in itself constitute a basis for a claim for compensation.

The complaint

3.1 It is submitted that the case was not examined properly by the national authorities and that the author never obtained an apology or sufficient satisfaction or reparation. As a result the State party has violated its obligations under article 2, subparagraph 1 (d) and article 6 of the Convention.

3.2 Counsel claims that neither the police department of Hvidovre nor the State Attorney examined the following issues, in particular: (a) had Mr. O.T. and Mr. K.P. said that the author and his brother were "a bunch of monkeys" and that they could not express themselves correctly; (b) had that expression been used with reference to the Pakistani origin of the author and his brother; (c) had that expression amounted to a discriminatory opinion about the author and his brother. According to counsel, the police limited themselves to interviewing Mr. O.T. and Mr. K.P; they did not even consider interviewing the author and his brother, or the six witnesses whose names and addresses were known to them.

State party's submission on admissibility and merits

4.1 In a submission dated 29 November 1999 the State party contends that the author failed to establish a prima facie case for the purpose of admissibility and, accordingly, the communication should be declared inadmissible. The State party does not dispute that the other conditions for admissibility set out in article 14 of the Convention and rule 91 of the Committee's rules of procedure are satisfied. Should the Committee not declare the communication inadmissible on the above grounds, the State party submits that there has been no violation of the Convention and that the communication is manifestly ill-founded.

4.2 The State party quotes excerpts from the complaint lodged by counsel with the Chief Constable of Hvidovre on 7 July 1998, the letter addressed by counsel to Avedore High School on 22 June 1998 requesting an explanation of the incident and an apology, and the response of the headmaster. It states that, as a result of counsel's complaint, the police interviewed Mr. K.P. on 9 September 1998.

4.3 Mr. K.P. explained to the police that the author had previously been a student of his and that there had been disagreements between them, including about the author's grades. On the examination day in question he had been corridor attendant responsible, inter alia, for peace and

order. At one point he noticed two individuals in the basement, at the door to the sports field, and that a cup was jammed into the door to keep it open. He asked the two persons, one of whom was the author's brother, what they were doing there. They answered that they were waiting for the author, who was returning books. Mr. K.P. said that it was a strange place to be standing and that there had previously been three cases of theft at the school in which that particular door had been used. The two young people started getting excited and shouted at Mr. K.P. The author, who was standing at the book return desk, turned round and insulted Mr. K.P.

4.4 Later, Mr. K.P. noticed four to six persons of foreign origin, including the author and his brother, waiting outside an examination room. There was much noise in the corridor and several times the teachers had come out of the examination rooms and requested quiet. Mr. K.P. then decided to empty the corridors. Everybody left, except the group containing the author and his brother. The brother shouted that they were not going to leave. Mr. K.P. asked them four times, quietly and peacefully, to leave the corridor but they still refused to do so. Both the author and his brother had threatening, piercing eyes, pointed with their fingers at Mr. K.P. and shouted and screamed. Mr. K.P. pressed the intercommunication system on the wall and shortly afterwards the headmaster arrived. The headmaster tried for about five minutes to talk to the group but they still refused to leave. The group, mainly led by the brother and, to some extent, the author, hurled insults and became more and more threatening, even in the presence of other teachers. As a result, the police were summoned. Mr. K.P. could not remember whether the group left by themselves after realizing that the police had been called or whether the police removed them. In any case, he noted subsequently that police were standing outside the school talking with the group. Mr. K.P. was asked whether the headmaster had said anything about "monkeys" to the group. He replied that he had heard nothing of the sort. He was asked whether he had said anything similar. He answered that he did not think so but was not able to reply definitively. If he had said something about "monkeys", it had nothing to do with race, religion, ethnic origin, etc. of the group, but had merely been used as an ordinary slang word for a "bunch" that behaved abnormally. He and Mr. O.T. had not wanted to lodge a complaint with the police about the threats received, as they were used to cultural differences and different conduct.

4.5 On 18 September 1998 the police interviewed Mr. O.T., the headmaster. He explained, inter alia, that Mr. K.P. had come to him and said that he was unable to control events on the second floor as a group of foreigners would not comply with his instructions. Upon arriving on the scene he noticed that a group of foreigners consisting of 8 to 10 persons, including the author and some of his classmates, were making a lot of noise. When he asked them to leave, the author's brother started to shout, insulted Mr. O.T. and made threatening gestures. While all this was happening the author was standing with a video camera. Mr. O.T. believes that he was recording. A group of parents who had been sitting at the end of the corridor had been very shocked. During the entire episode several adults had come to the corridor and watched the whole scene with astonishment. When asked why he did not file a complaint, Mr. O.T. explained that they were used to many different nationalities at the school and consequently they probably had a higher tolerance threshold. As for the use of the expression A "bunch of monkeys", he said that he could not deny having said something like that. If so, the word "monkey" was merely used in the light of the conduct of the group and had no relation to the

religious affiliation, colour, ethnic origin, etc., of the group. He could equally have used the word about a group of ethnic Danes behaving similarly. He could not remember Mr. K.P. referring to the group as "a bunch of monkeys who could not express themselves grammatically correctly".

4.6 By letter dated 23 September 1998 the Chief Constable of Hvidovre informed counsel, inter alia, as follows:

> "Pursuant to section 742(2) of the Administration of Justice Act (retsplejeloven), the police initiates an investigation on the basis of information when it can reasonably be assumed that a criminal offence subject to public prosecution has been committed.
>
> "I have had some investigation made in the case, inter alia by interviewing Mr. O.T. and Mr. K.P.
>
> "Subsequently, I am of the opinion that the statements and the circumstances under which they may have been made fall outside the provisions of section 266b of the Criminal Code.
>
> "I have therefore decided, pursuant to section 749(2) of the Administration of Justice Act, to discontinue the investigation and shelve the case.
>
> "In my assessment I have attached importance to the following:
>
> > "Mr. O.T. does not entirely deny that he may have said something like the quoted statement.
> >
> > "However, the statements must be seen in connection with a tense episode in the corridors of the High School, during which both Mr. K.P., the teacher, and especially Mr. O.T., the headmaster, have borne various expressions of disapproval and even had to summon the police to get peace at the examination rooms.
>
> "Anyway, in my opinion, the alleged statements cannot especially be perceived as insulting or degrading in relation to race, colour, national extraction or ethnic origin, as such statements could be made with the same meaning about others - of Danish ethnic origin - who exhibit similar conduct. The statements refer to the nature of the conduct and not to the person.
>
> "Any claim for damages is referred to a civil action."

4.7 By letter of 1 October 1998 counsel appealed the decision to the District Public Prosecutor for Zealand through the Chief Constable of Hvidovre. He stressed, inter alia, that neither the author nor his classmates had been interviewed by the police and that a video recording existed that showed the situation about 30 minutes before the episode occurred, when a

very large number of classmates and relatives of a student being examined were in the corridor. The video also showed the situation shortly before the statements in question were made, when only a quite small number of persons were present in the corridor, together with Mr. K.P.

4.8 On 6 October 1998 the Chief Constable forwarded the case to the District Public Prosecutor and explained that in view of the context in which the statements in question had been made he had not found it necessary to interview the author. Although he had not seen the video, he did not consider it relevant, as it did not concern the episode itself. On 30 November 1998 the District Public Prosecutor informed counsel that he concurred entirely in the assessment made by the Chief Constable and found no basis for reversing his decision.

4.9 The State party submits that the central point in the present communication is the statements allegedly made by Mr. K.P. and Mr. O.T. Those statements, if made, are not an expression of a difference of treatment that constitutes discrimination in violation of article 2.1 and article 5 (e) (v) of the Convention. It is more relevant to assess the statements in question in relation to article 4 (a) of the Convention, which requires States parties to penalize certain categories of misconduct. To enable Denmark to ratify the Convention, section 266b and other sections of the Danish Criminal Code were amended. Pursuant to section 266b, any person who, publicly or with the intent of dissemination to a wider circle, makes statements or any other communication by which a group of persons is threatened, insulted or exposed to indignities on the grounds of race, colour, national extraction or ethnic origin, shall be liable to punishment.

4.10 It is a condition that the statement in question be directed at a group on the basis of its race, etc. Statements aimed at a single person must, if they cannot be seen as an expression of insult or persecution of the group to which the person belongs, be assessed pursuant to the general rules of the Criminal Code on invasion of privacy and defamation of character. When assessing whether certain statements must be deemed to be in violation of section 266b it is necessary to make a concrete assessment of the substance of the statements, including the context in which they were made. This was done by the Chief Constable and the District Public Prosecutors in deciding to discontinue the investigation. The Government concurs entirely in those assessments and considers that the author has not substantiated or rendered probable that he was the victim of racist statements in violation of the Convention, as the statements in question were not aimed at a group because of its race or ethnic origin. Thus, the author has failed to establish a prima facie case for the purpose of admissibility of his communication.

4.11 The State party is aware that the Convention establishes certain requirements with regard to the treatment accorded by the authorities to information from private individuals concerning alleged racial discrimination contrary to the Convention.[a] However, the investigation performed by the police fully satisfied the requirements that can be inferred from the Convention, as interpreted in the Committee's practice. The police had details of the substance of the alleged statements both from the author and his counsel and from the teacher and the headmaster. The author has specifically pointed out that the police should have assessed whether the statements that gave rise to the complaint had in fact been made. The State party argues that both the police and the Public Prosecutor assessed that it was not necessary to decide definitively whether the statements were in fact made as, even if they had been made, they were not criminal pursuant to section 266b of the Danish Criminal Code.

4.12 The task of the police in handling a complaint differs from the way a criminal case is treated by the courts. The task of the police is not to establish in a binding manner what actually happened, but to assess "whether the conditions of imposing criminal liability ... are satisfied" (section 743 of the Administration of Justice Act). The police have determined that, to be able to make this assessment, it was not necessary to decide whether the alleged statements had in fact been made as, whether they had been made or not, they were not criminal.

4.13 Moreover, the author has pointed out that the police should have determined whether the expressions used were intended to disparage the national origin of the author and whether they were racially discriminatory. According to the State party, such a determination was indeed made, as reflected in the decisions of the Chief Constable and the District Public Prosecutor.

4.14 The author has further pointed out that he, his brother and six named witnesses were not interviewed by the police. The State party argues that the statements, if they had been made, could not be considered as falling within section 266b of the Criminal Code. This made it unnecessary to interview the applicant, who had given an account of his understanding of the incident in his written information. Against this background, the State party considers that it was equally unnecessary to interview the applicant's brother and the six witnesses.

4.15 The State party finds that the police initiated a proper investigation. Thus, article 2.1 (d), article 5 (e) (v) and article 6 of the Convention have not been violated, nor has article 4 (a).

Counsel's comments

5. In a submission dated 10 January 2000 counsel argues that the State party recognizes in its response some of the essential elements which gave rise to the report by the author to the police. In previous cases the Committee has stressed the need for a thorough investigation of reported cases of racial discrimination. As explained in the initial submission, the police declined to examine the case after having interviewed only the two representatives of the high school. In order to fulfil the requirements of a thorough investigation, and in order to clarify questions relating to the expressions used and their status under Danish law, the police should at least have interviewed the author and/or the witnesses.

Issues and proceedings before the Committee

6.1. The State party submits that Mr. K.P. did not deny having called the author and his group "monkeys". It also submits that Mr. O.T. did not deny having said something similar. It is also established that these utterances were made in the course of a tense episode in a school corridor and in the presence of several witnesses. Thus, the Committee is of the opinion that the author was insulted in public, at least by Mr. O.T.

6.2. The District Public Prosecutor did not establish whether the author had been insulted on the grounds of his national or ethnic origin, in violation of the provisions of article 2, paragraph 1 (d), of the Convention. It is the opinion of the Committee that if the police involved in the case had not discontinued their investigations, it might have been established whether the author had indeed been insulted on racial grounds.

6.3. From information submitted by the State party in its fourteenth periodic report (CERD/C/362/Add.1), the Committee gathers that on several occasions persons have been convicted by Danish courts for breaches of section 266b of the Criminal Code consisting of insulting or degrading statements similar to those uttered in the present case. Therefore, the Committee does not share the opinion of the State party that the statements in question do not fall within section 266b of the Criminal Code.

6.4. Owing to the failure of the police to continue their investigations, and the final decision of the Public Prosecutor against which there was no right of appeal, the author was denied any opportunity to establish whether his rights under the Convention had been violated. From this it follows that the author has been denied effective protection against racial discrimination and remedies attendant thereupon by the State party.

7. The Committee considers that the author has established a prima facie case for the purpose of admissibility. It also considers that the conditions for admissibility have been satisfied. It therefore decides, under rule 91 of its rules of procedure, that the communication is admissible.

8. As for the merits, the Committee considers that, in the light of the above findings, the facts as presented constitute a violation of article 6 of the Convention.

9. The Committee recommends that the State party ensure that the police and the public prosecutors properly investigate accusations and complaints relating to acts of racial discrimination, which should be punishable by law in accordance to article 4 of the Convention.

Opinion concerning communication No. 17/1999

Submitted by: B.J. (represented by legal counsel)

Alleged victim: The author

State party concerned: Denmark

Date of communication: 13 July 1999 (initial submission)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 17 March 2000,

Having concluded its consideration of communication No. 17/1999, submitted to the Committee under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Having taken into consideration all written information made available to it by the author and the State party,

Bearing in mind rule 95 of its rules of procedure requiring it to formulate its opinion on the communication before it,

Adopts the following:

Opinion

1.1 The author of the communication is Mr. B.J., a Danish engineer of Iranian origin born in 1965, who claims to be a victim of violations by Denmark of article 2, subparagraph 1 (a), (b) and (d), article 5 (f) and article 6 of the Convention. He is represented by counsel.

1.2 In conformity with article 14, paragraph 6 (a), of the Convention, the Committee transmitted the communication to the State party on 27 August 1999.

The facts as submitted by the author

2.1 The author has lived in Denmark since 1984 and has Danish nationality. On 1 February 1997 he went to a discotheque in Odense with his brother and a group of friends. Two of them were of Danish origin and four were not. The doorman of the discotheque, Mr. M.R.S., refused to let them in. When the author asked the reason, Mr. M.R.S. replied that it was because they were "foreigners".

2.2 On 2 February 1997 the author reported the matter to the police, complaining of racial discrimination. The police assistant on duty was unwilling to accept the complaint and informed the author that the admissions policy was entirely up to the owners of the discotheque.

2.3 On 3 February 1997 the author filed a written complaint that was rejected by the police. He then appealed to the State Attorney who decided to initiate an investigation. Subsequently, the Public Prosecutor brought the case before the District Court of Odense. By decision of 20 March 1998 the Court ruled that Mr. M.R.S. was to be fined DKr 1,000 for violation of section 1, subparagraph 2, of Consolidated Act No. 626 of 29 September 1987 on racial discrimination.

2.4 The author had also requested the Public Prosecutor to file a claim for compensation in accordance with section 26 of the Act on Civil Liability. In that respect the court decided that the violation to which the author had been subjected was not of such a grave or humiliating character as to justify the granting of pecuniary compensation. Accordingly, the claim was rejected.

2.5 The author did not receive a copy of the court's judgement until the time-limit for filing an appeal to the High Court had expired. With the assistance of the Documentary and Advisory Centre on Racial Discrimination (DRC) he obtained a special permit from the High Court of the Eastern Circuit to bring the case before it. However, the High Court did not find any basis for a claim for compensation. According to its judgement, the doorman had informed the author and his friends that they could not enter the discotheque because, in accordance with the discotheque's rules, there were already more than 10 foreigners inside. That information was first given to the author's brother and then to the author himself in a polite manner. In the

circumstances the High Court concluded that the violation of the author's honour committed by the doorman was not of such severity and did not involve such humiliation as to justify the granting of compensation under section 26 of the Act on Civil Liability. The Court made reference to the fact that the doorman had been fined for rejecting the author and that, accordingly, the necessary verification and condemnation of the act had taken place and the author had had sufficient satisfaction.

2.6 Judgements of the High Court in appeal cases may normally not be appealed to the Supreme Court. However, the Procesbevillingsnaevn may grant a special permit if the case involves issues of principle. On 4 March 1999 the author's counsel applied to the Procesbevillingsnaevn for such a permit, arguing that Danish courts had never before had the possibility to interpret section 26 of the Act on Civil Liability in the light of article 6 of the Convention. The application, however, was rejected by letter of 11 May 1999 and was not brought before the Supreme Court. No further remedies are available under Danish law.

The complaint

3.1 According to counsel, it is undisputed that the author's exclusion from the discotheque was an act of racial discrimination. Article 6 of the Convention stipulates that effective satisfaction and reparation must be granted for any damage suffered as a result of discrimination. However, the purely symbolic fine imposed by the Odense court does not provide effective satisfaction or reparation in accordance with that provision. Furthermore, under section 26 of the Danish Act on Civil Liability it is possible to grant compensation for insult. By refusing such compensation the Danish courts have failed to apply Danish law.

3.2 Counsel further claims that by refusing the author's right to compensation the Danish courts have not fulfilled their obligations under article 2, subparagraph 1 (a), (b) and (d), of the Convention. He finally claims that by allowing the discotheque to refuse the author access on racial grounds the State party has not fulfilled its obligations under article 5 (f) of the Convention.

State party's observations

4.1 In a submission dated 29 November 1999 the State party recognizes that the conditions for admissibility of the communication are satisfied. However, it claims that no violation of the Convention has occurred and that the communication is manifestly ill-founded.

4.2 The State party recalls that by indictment of 3 June 1997, the Chief Constable of Odense charged the doorman in question with violation of section 1 (2) of the Act Prohibiting Discrimination on the Basis of Race (Consolidated Act No. 626 of 29 September 1987), because on 2 February 1997 he refused the author admittance on the basis of the latter's colour and ethnic origin. On 20 March 1998 the District Court of Odense found the doorman guilty of the charge. Upon counsel's request, the prosecutor claimed that the doorman should pay compensation for non-pecuniary damage to the author, in accordance with section 26 of the Act on Liability in Dan ages (erstatningsansvarsloven) and article 6 of the Convention. However, the claim for compensation was dismissed by the District Court. The author filed an appeal with the Eastern

High Court claiming that the offender should be ordered to pay compensation for non-pecuniary damage of DKr 10,000, with the addition of pre-judgement interest. However, the Eastern High Court upheld the judgement of the District Court.

4.3 In connection with the alleged violation of article 2.1 (a), (b) and (d) of the Convention, the State party argues that article 2.1 (d) is the most relevant provision, as article 2.1 (a) and (b) do not make any independent contribution in relation to the author's complaint, which concerns discrimination committed by a private individual. The adoption of Consolidated Act No. 626 of 29 June 1987 prohibiting discrimination on the basis of race is to be seen inter alia, as fulfilment of the obligations following from articles 2.1 (d), 5 (f) and 6 of the Convention. Not only has the State party adopted a law that criminalizes acts of racial discrimination such as that of which the applicant was a victim on 2 February 1997, but the Danish authorities have enforced these criminal provisions in the specific case by prosecuting and penalizing the doorman.

4.4 Concerning the author's claim that the purely symbolic nature of the fine does not provide effective satisfaction or reparation, the State party claims that the Convention cannot be interpreted to mean that it requires a specific form of penalty (such as imprisonment or a fine) of a specific severity or length (such as a non-suspended custodial penalty, a suspended custodial penalty, a fine of a specific amount or the like) as the sanction for specific types of acts of racial discrimination. In the State party's view, it is not possible to infer a requirement of a penalty of a specific type or severity from the wording of the Convention, from the practice of the Committee in its consideration of communications under article 14, or from the general recommendations adopted by the Committee.

4.5 Violations of section 1 of the Act Prohibiting Discrimination on the Basis of Race are punished with "a fine, lenient imprisonment or imprisonment for a term not exceeding six months". In determining the penalty within the maximum penalty provided for by this provision, the court in question must take into account a multiplicity of elements. It thus follows from section 80 (1) of the Danish Criminal Code that, in determining the penalty, account shall be taken of the gravity of the offence and information concerning the offender's character, including his general personal and social circumstances, his conduct before and after the offence and his motives in committing it.

4.6 Determination of suitable sanctions in specific cases falls within the margin of appreciation of the State party. The national authorities have the benefit of direct contact with all the persons concerned and are better able to assess what is a suitable sanction in the specific case. Moreover, it must be up to the State party to decide what sanction shall be deemed sufficiently deterrent and punitive. It is recognized, however, that the margin of appreciation should not be exercised in a manner which would impair the very essence of article 6 of the Convention.

4.7 The penalty imposed on the doorman in the present case accords with domestic case law in similar cases and can be compared with the sanctions in criminal cases concerning racist statements falling within section 266b of the Criminal Code. It can therefore not be considered a fine of a "purely symbolic nature".

4.8 In view of the foregoing, the State party is of the opinion that there is no basis for alleging that article 2.1 (d), article 5 (f) or article 6 of the Convention has been violated by the conduct of the criminal proceedings against the doorman, as the judgement established that the author had been the victim of a prohibited act of racial discrimination.

4.9 An individual who believes that he or she has been the subject of discrimination in violation of the Act Prohibiting Discrimination on the Basis of Race, interpreted in the light of the Convention, can, if relevant, claim compensation for pecuniary or non-pecuniary damage from the offender. However, the State party finds that it must be left to the individual State party to determine the detailed procedural rules and rules of substance for awarding compensation for non-pecuniary damage.

4.10 The right to "adequate reparation or satisfaction" is not an absolute right, but may be subject to limitations. These limitations are permitted by implication since such a right, by its very nature, calls for regulation by the State. In this respect, the States parties enjoy a margin of appreciation and can lay down limitations, provided that those limitations do not restrict or reduce the right in such a way or to such extent that its very essence is impaired. In this respect guidance may be found in the jurisprudence of the European Court of Human Rights.

4.11 The State party finds that the last part of article 6 of the Convention is to be interpreted in the same way as article 5.5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. It appears from the latter that everyone who has been the victim of arrest or detention in contravention of its provisions "shall have an enforceable right to compensation". In the interpretation of this provision the European Court has established that the provision does not involve an unconditional right to compensation, as the Contracting States have a right to demand that certain conditions be satisfied. Thus, the Court has stated that the said provision "does not prohibit the Contracting States from making the award of compensation dependent upon the ability of the person concerned to show damage resulting from the breach. In the context of article 5.5 ... there can be no question of 'compensation' where there is no pecuniary or non-pecuniary damage to compensate".[b]

4.12 It is thus the opinion of the State party that the Convention cannot be interpreted to mean that a person who has been the subject of an act of discrimination committed by another individual, including an act of discrimination in violation of article 5 (f) of the Convention, always has a claim for compensation for non-pecuniary damage. The fact that a person who has committed such an act is actually prosecuted and convicted can in certain cases constitute in itself "adequate reparation or satisfaction". This view is supported, inter alia, by the interpretative statement concerning article 6 of the Convention deposited by the United Kingdom when signing the Convention. The statement in question says: "The United Kingdom interprets the requirement in article 6 concerning 'reparation or satisfaction' as being fulfilled if one or other of these forms of redress is made available and interprets 'satisfaction' as including any form of redress effective to bring the discriminatory conduct to an end".

4.13 According to Danish law, it is possible both in law and in fact to be awarded compensation for pecuniary and non-pecuniary damage in the case of acts of racial discrimination committed by individuals in violation of the Convention, but this presupposes that the conditions therefor are otherwise satisfied.

4.14 Pursuant to section 26 (1) of the Act on Liability in Damages, a person who is responsible for unlawful interference with another person's liberty, invasion of his privacy, damage to his self-esteem or character or injury to his person shall pay compensation for the damage to the injured person. The provision is mandatory but the condition is that the unlawful act has inflicted "damage" (in Danish "tort") on the injured party. Tort in the Danish sense is damage to another person's self-esteem and character, that is, the injured person's perception of his own worth and reputation. The humiliation is what motivates the claim for compensation for non-pecuniary damage. It is inherent in the requirement of "unlawful" damage that it must be culpable and that it must be of some gravity. When determining the compensation, if any, account must be taken of the gravity of the damage, the nature of the act and the circumstances in general.

4.15 The decision of the Eastern High Court refusing compensation to the author for non-pecuniary damage was based on a specific assessment of the circumstances concerning the criminal act. Thus, the Court found that the damage to the author's self-esteem had not been sufficiently grave or humiliating to determine any compensation for non-pecuniary damage.

4.16 The fact that a person who has committed an act of racial discrimination against another individual is actually prosecuted and convicted can in certain cases constitute in itself "adequate reparation or satisfaction". The judgement of the Eastern High Court accords with this view when it states the following: "The Court further refers to the facts that the doorman has been sentenced to a fine in respect of the refusal of admittance, that the requisite determination and condemnation of the act has thus been effected and that this has afforded the applicant sufficient satisfaction".

4.17 It is thus the opinion of the State party in the specific case that the fact that the doorman was sentenced to a fine for his refusal to admit the author to the discotheque in question constitutes "adequate reparation or satisfaction".

Counsel's comments

5.1 In a submission dated 14 January 2000 counsel maintains that no effective remedy has been granted to the author in order to comply with the relevant provisions of the Convention, including article 6. In order to implement the Convention conscientiously, States parties must be under an obligation to ensure its effective observance. Sanctions for breaches of national provisions implementing the Convention must be effective and not only symbolic.

5.2 The State party argues that under Danish law it is possible to be awarded compensation for pecuniary and non-pecuniary damage in the case of acts of racial discrimination in violation

of the Convention committed by individuals, but this presupposes that the conditions therefor are otherwise satisfied. To counsel's knowledge no such court decisions exist. The present case was the first in which a claim for compensation was examined by a Danish court.

5.3 Furthermore, according to section 26 of the Danish Act on Liability, compensation is granted in accordance with other statutory provisions. As no other statutory provisions exist in this field, there would be no point in awaiting court decisions.

5.4 The decision to refuse compensation implies, in fact, that no compensation for non-pecuniary damages is granted in cases of racial discrimination if the racial discrimination has taken place "politely". Such a position is not in conformity with the Convention.

Issues and proceedings before the Committee

6.1 As readily recognized by the State party, the Committee considers that the conditions for admissibility are satisfied. It therefore decides, under rule 91 of its rules of procedure, that the communication is admissible.

6.2 The Committee considers that the conviction and punishment of the perpetrator of a criminal act and the order to pay economic compensation to the victim are legal sanctions with different functions and purposes. The victim is not necessarily entitled under all circumstances to compensation in addition to the criminal sanction of the perpetrator. However, in accordance with article 6 of the Convention, the victim's claim for compensation has to be considered in every case, including those cases where no bodily harm has been inflicted but where the victim has suffered humiliation, defamation or other attack against his/her reputation and self-esteem.

6.3 Being refused access to a place of service intended for the use of the general public solely on the ground of national or ethnic background is a humiliating experience which, in the opinion of the Committee, may merit economic compensation and cannot always be adequately repaired or satisfied by merely imposing a criminal sanction on the perpetrator.

7. While the Committee considers that the facts described in the present communication disclose no violation of article 6 of the Convention by the State party, the Committee recommends that the State party take the measures necessary to ensure that the victims of racial discrimination seeking just and adequate reparation or satisfaction in accordance with article 6 of the Convention, including economic compensation, will have their claims considered with due respect for situations where the discrimination has not resulted in any physical damage but humiliation or similar suffering.

B. Fifty-seventh session

Decision concerning communication No. 12/1998

Submitted by: Paul Barbaro

Alleged victim: The author

State party concerned: Australia

Date of communication: 28 November 1998

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 8 August 2000,

Adopts the following:

Decision on admissibility

1. The author of the communication is Paul Barbaro. He claims to have been a victim of racial discrimination by the Australian authorities on the basis of his Italian origin.

The facts as submitted by the author

2.1 On 25 June 1986, the author obtained temporary employment at the Casino in Adelaide, South Australia; he initially worked as a bar porter and subsequently as an attendant. On 16 April 1987, the Liquor Licensing Commissioner (LLC) of the South Australian Liquor Licensing Commission, which is responsible for supervising the observance of the rules governing the management of the Adelaide Casino and must ensure that its operations are subject to continued scrutiny, withdrew the author's temporary employment licence and refused to approve his permanent employment with the Casino. A hearing, during which the LLC questioned the author on a number of points and discussed his concerns, was held on 30 April 1987.

2.2 In September 1993, well over six years later, the author complained to the Australian Human Rights and Equal Opportunities Commission (HREOC), claiming that the decision of the LLC had been unlawful under sections 9 and 15 of Australia's Race Discrimination Act of 1975. He argued, inter alia, that the LLC had decided against his obtaining a permanent contract because of his and his family's Italian (Calabrian) origin, since some of his relatives were allegedly involved in criminal activities, notably trafficking of illegal drugs, of which he did not know anything. Mr. Barbaro contends that this attitude effectively restricts the possibilities for employment of Italians who are not themselves criminals but who may have relatives that are. In support of his argument, the author refers to letters of support from Peter Duncan, M.P., who seriously questioned and denounced this perceived practice of "guilt by association".

2.3 The author refers to similar cases in which the ethnic background of applicants for employment in licensed casinos was adduced as a reason for not approving employment. In particular, he refers to the case of Carmine Alvaro, decided by the Supreme Court of South Australia in December 1986, who was refused permanent employment because of his family's involvement in the cultivation and sale of illegal drugs. In this case, the LLC had stated that he had been advised by the police that they had received information that one of the drug families in the area would attempt to place a "plant" at the Casino.

2.4 HREOC forwarded the author's complaint to the South Australian Attorney-General's Department for comments. The latter informed HREOC that the "sole reason for refusing [the author's] employment was to ensure the integrity of the Adelaide Casino and public confidence in that institution". Reference was made in this context to a report from the Commissioner of Police, which stated:

> "Paul Barbaro has no convictions in this state. He is a member of a broad family group which, in my opinion, can only be described as a major organized crime group ... Eighteen members of this group have been convicted of major drug offences ... The offences are spread across four states of Australia. All are of Italian extraction. All are related by marriage or direct blood lines."

2.5 There were some discrepancies between the author's and the LLC's assertions in respect of the degree of some of the relationships, in particular the relationships established by the marriages of the author's siblings. The author emphasized that he had maintained a certain autonomy from his relatives and that he did not know personally many of the people listed in the Police Commissioner's report. He also insisted that he knew nothing of his relatives' previous drug-related offences.

2.6 On 30 November 1994, the Racial Discrimination Commissioner of HREOC rejected the author's claims concerning his unlawful dismissal, having determined that it was the author's perceived or actual relationships with individuals who have criminal records, and not his Italian ethnic origin, which was the basis for the LLC's decision. The Race Discrimination Commissioner stated that "[T]he fact that [he] and [his] family members are of Italian origin or descent is not germane" to the resolution of the case.

2.7 On 7 December 1994, the author appealed for review of the Racial Discrimination Commissioner's decision. By decision of 21 March 1995, the President of HREOC confirmed the decision of the Racial Discrimination Commissioner, holding that there was no evidence that the author's ethnic background had been a factor in the LLC's decision.

The complaint

3. Although the author does not invoke any provision of the Convention, it transpires from his communication that he claims a violation by the State party of articles 1, paragraph 1, and 5 (a) and (e) (i) of the Convention.

State party's submission on the admissibility of the communication and author's comments thereon

4.1 By submission of March 1996, the State party challenges the admissibility of the communication on several grounds. It first supplements the facts as presented by the author. Thus, the State party notes that when obtaining temporary employment in 1986, the author gave the Police Commissioner for South Australia written authorization to release to the LLC particulars of all convictions and other information that the Police Department may have had on him. On 25 June 1986, Mr. Barbaro acknowledged in writing that the granting of temporary employment was subject to all enquiries made concerning his application for approval as a Casino employee being concluded to the satisfaction of the LLC, and that temporary approval could be withdrawn at any time.

4.2 On 30 April 1987, the author, accompanied by his lawyer and two character witnesses, attended a hearing before the LLC, during which the LLC explained his concern that the author had an association with an organized crime group. The author was given an opportunity to comment on the evidence which had been provided to the LLC by the Police Commissioner.

4.3 In relation to the author's complaint before HREOC, the State party notes that after the dismissal of Mr. Barbaro's complaint by the Race Discrimination Commissioner, the author gave notice of appeal to have the decision reviewed under section 24AA 9(1) of the Race Discrimination Act (RDA), the President of HREOC, Sir Ronald Wilson, a former High Court judge, confirmed the decision in accordance with section 24AA 2(b)(I) of the RDA, holding that there was no evidence that the author's ethnic origin constituted a ground for the alleged discrimination.

4.4 The State party contends that the case is inadmissible as incompatible with the provisions of the Convention, on the basis of rule 91 (c) of the Committee's rules of procedure, as the Committee is said to lack the competence to deal with the communication. In this context, the State party affirms that Australian law and the RDA conform with the provisions of the Convention. The RDA was enacted by the Federal Government and implements articles 2 and 5 of the Convention by making racial discrimination unlawful and ensuring equality before the law (sects. 9 and 10). The wording of section 9 closely follows the wording of the definition of racial discrimination in article 1 of the Convention. Section 15 of the RDA implements the provisions of article 5 of the Convention in relation to employment. Moreover, HREOC is a national authority established in 1986 for the purpose of receiving and investigating alleged breaches of the RDA. Members of HREOC are statutory appointees and as such enjoy a high degree of independence. HREOC investigated the author's case thoroughly and found no evidence of racial discrimination.

4.5 In the light of the above, the State party argues that it would be inappropriate for the Committee to effectively review the decision of HREOC. While it concedes that the issue of whether the decision of HREOC was arbitrary, amounted to a denial of justice or violated its obligation of impartiality and independence, would fall within the Committee's jurisdiction, it contends that the author did not submit any evidence to this effect. Rather, the evidence

contained in the transcript of the hearing before the LLC and the correspondence with HREOC indicate that the author's claim was considered within the terms both of the RDA and the Convention.

4.6 The State party further submits that the complaint is inadmissible on the basis of lack of substantiation, arguing that the author did not provide any evidence that his treatment amounted to a "distinction, exclusion, restriction, or preference based on race, colour, descent, or national or ethnic origin which [had] the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights" (article 1, paragraph 1, of the Convention). There is said to be no evidence that the author's ethnic or national origin was a factor in the decision of the LLC to refuse a permanent appointment to the author; rather, he was concerned to fulfil his duty to ensure that the operations of the casino were subject to constant scrutiny and to guarantee public confidence in the casino's lawful operation and management.

4.7 Finally, the State party claims that the author failed to exhaust available domestic remedies, as required by article 14, paragraph 7 (a), of the Convention, and that he had two available and effective remedies which he should have pursued in relation to his allegation of unfair dismissal. Firstly, it would have been open to the author to challenge the decision of the President of HREOC in the Federal Court of Australia, pursuant to the Administrative Decisions (Judicial Review) Act of 1977 (ADJR Act). The State party emphasizes that the decision of the HREOC President was reviewable under the ADJR Act: grounds for review are listed in section 5 of the Act; they include grounds that there is no evidence or other material to justify the taking of the decision, and that the adoption of the decision was an improper exercise of power. The State party argues that this review mechanism is both available and effective within the meaning of the Committee's admissibility requirements: thus, pursuant to any application under the ADJR Act, the Court may set aside the impugned decision, refer it back to the first instance for further consideration subject to directions, or declare the rights of the parties.

4.8 According to the State party, the author could also have challenged the LLC's decision in the Supreme Court of South Australia, by seeking judicial review under rule 98.01 of the South Australian Supreme Court Rules. Under rule 98.01, the Supreme Court may grant a declaration in the nature of certiorari or mandamus. Under rule 98.09, the Supreme Court may award damages on a summons for judicial review. It is submitted that an action for judicial review pursuant to rule 98 was an available remedy in the instant case.

4.9 The State party concedes that the author was not obliged to exhaust local remedies which are ineffective or objectively have no prospect of success. It refers in this context to the decision of the Full Court of the Supreme Court of South Australia in the case of R. v. Seckler ex parte Alvaro ("Alvaro's case"), decided on 23 December 1986. The material facts of that case were similar to the author's: the respondent was the LLC of South Australia, the same person as in the author's case, and the matter at issue was the respondent's refusal to approve the plaintiff's employment. By majority, the Supreme Court of South Australia held that the plaintiff was not entitled to relief. In the State party's opinion, the judicial precedent provided by the decision in

Alvaro's case did not excuse the author from exhausting the remedy available by way of judicial review; it adds that "unlike an established legal doctrine, a single majority judgement in a relatively new area of law does not meet the test of obvious futility required in order to countenance non-exhaustion of an available remedy".

4.10 Still in the same context, the State party rejects as too broad an interpretation the argument that exhaustion of domestic remedies cannot be required if the remedies available probably would not result in a favorable outcome. Therefore, judicial review under rule 98 of the Supreme Court Rules is said to be both an available and an effective remedy, to which the author did not resort. The State party notes that the author did not file his claim within the six months of the grounds for review first arising (7 November 1987), as is required under rule 98.06 of the Supreme Court Rules. Thus, pursuit of this remedy is now impossible because of the expiration of statutory deadlines; the State party observes that failure to pursue such remedy in a timely manner must be attributed to the author. Reference is made to the jurisprudence of the Human Rights Committee.

5.1 In comments dated 28 April 1996, the author rebuts the State party's arguments and dismisses them as irrelevant to the resolution of his case. He questions the credibility of the State party's arguments in the light of the letters of support he received from a Member of Parliament, Mr. Peter Duncan.

5.2 In the author's opinion, the Committee does have competence to deal with the merits of his claims. He contends that HREOC did not examine his complaint with the requisite procedural fairness. In this context, he notes, without giving further explanations, that the RDA allows complainants to attend a hearing at some designated location to present arguments in support of the complaint, and that this did not occur in his case. The result, he surmises, led to an uninformed decision by HREOC which was not compatible with the provisions of the Convention.

5.3 The author notes that the President of HREOC, Sir Ronald Wilson, who dismissed his claim on 21 March 1995, had been a judge in the Supreme Court of South Australia when the decision in Alvaro's case was handed down in December 1986. He now argues that there was a conflict of interest on the part of the President of HREOC, who had determined the merits of a factually comparable case in the Supreme Court of South Australia before dealing with the author's own case. In the circumstances, the author argues that the HREOC decision was tainted by bias and arbitrariness and that the Committee has competence to deal with his case.

5.4 The author reiterates that there is sufficient evidence to show that his case falls prima facie within the scope of application of article 1, paragraph 1, of the Convention. He argues that "[a]s with normal practices of institutionalized racism a clear and precise reason [for termination of employment] was not given nor required to be given". He further contends that it is difficult to see how the acts of State agents in his case did not amount to a "distinction" within the meaning of the Convention, given the terms of the Police Commissioner's report to the LLC in 1987, in which it was explicitly stated that the author was "a member of a broad family group ... All are of Italian extraction". From this reasoning, the author asserts, it is clear that individuals with his background are precluded from enjoying or exercising their rights on an

equal footing with other members of the community. He also refers to a judgement in the case of Mandala and Anor v. Dowell Lee, ((1983) All ER, 1062), in which it was held that blatant and obviously discriminatory statements are generally not required when investigating instances of race distinctions, since direct evidence of racial bias is often disguised.

5.5 As to the requirement of exhaustion of domestic remedies, the author observes that the decision handed down by the President of HREOC on 21 March 1995 and transmitted to him on 24 March 1995 failed to mention any possible further remedies. He notes that the RDA itself is silent on the possibility of judicial review by the Federal Court of Australia of decisions adopted by the President of HREOC.

5.6 Finally, the author contends that the possibility of judicial review of the decision of the LLC to refuse him permanent employment under the rules of the Supreme Court of South Australia is not realistically open to him. He argues that the judgement of the Supreme Court of South Australia in Alvaro's case constitutes a relevant precedent for the determination of his own case, all the more so since the State party itself acknowledges that Alvaro's case presented many similarities to the author's. If, in addition, the fact that the President of HREOC who dismissed the author's appeal had previously been involved in the determination of Alvaro's case is taken into consideration, the author adds, then the possibility of challenging his decision before the Supreme Court successfully was remote.

6.1 By further submission of 22 July 1996, the State party in turn dismisses as partial or incorrect several of the author's comments. It notes that the author was partial in choosing quotes from the Police Commissioner's report and that the complete quotes indicate that the operative factor in the LLC's decision concerning Mr. Barbaro's suitability for casino employment was his association with 18 members of his family who had been convicted of major drug-related offences. Ethnicity was only raised by the Police Commissioner as one factor, combined with others such as family association and the type of offences; the author's ethnic background was relevant only insofar as it assisted in defining this cluster of associations.

6.2 The State party concedes that in Australian employment practice, associates of applicants for employment are generally not considered a relevant factor in the determination of suitability for employment. In the instant case, it was relevant because the LLC was not an employer but a statutory officer. His statutory role was to ensure the constant scrutiny of casino operations, a role recognized by the Supreme Court of South Australia in Alvaro's case. In short, the LLC was entrusted with maintenance of the internal and external integrity of the casino. Like an employer, however, he was subject to the provisions of the RDA of 1975; in the instant case, the State party reiterates that the fact that there were drug offenders in the author's extended family was a proper justification for the LLC's decision.

6.3 The State party agrees in principle with the author's assertion that obvious and blatant expressions of racial discrimination are not required when investigating instances of race distinctions. It notes in this context that prohibition of indirectly discriminatory acts or unintentionally discriminatory acts is an established principle of Australian law. However, the State party re-emphasizes that decisions in Mr. Barbaro's case rested on grounds other than race, colour, descent or national or ethnic origin.

6.4 The State party contends that the author's comments raise new allegations about the fairness of the procedures before HREOC, especially as regards his claim that he was denied due process since he was not afforded an opportunity to attend a hearing to present his complaint. The State party argues that the author did not exhaust domestic remedies in this respect and that he could have filed an application for judicial review of this allegation under the ADJR. In any event, the State party continues, procedural fairness did not require the personal attendance of Mr. Barbaro to present his complaint. In the case of HREOC, the grounds for dismissing complaints prior to conciliation are set out in section 24 (2) of the RDA. They are:

(a) If the Race Discrimination Commissioner is satisfied that the discriminatory act is not unlawful by reason of a provision of the RDA;

(b) If the Commissioner is of the opinion that the aggrieved person does not desire that the inquiry be made or continued;

(c) If the complaint has been made to the Commission in relation to an act which occurred more than 12 months prior to the filing of the claim;

(d) If the Commissioner is of the opinion that the complaint under consideration is frivolous, vexatious, misconceived or lacking in substance.

In the author's case, the President of HREOC dismissed the complaint on the basis of section 24 (2) (d) of the RDA.

6.5 The State party dismisses as totally unfounded the author's argument that the HREOC decision was biased because of an alleged conflict of interest on the part of the President of HREOC. The State party points to the long-standing involvement of the President of HREOC in the legal profession and adds that it is indeed likely that someone with his profile and background will consider at different times issues which are related in law or in fact. The State party emphasizes that a previous encounter with a similar (factual or legal) issue does not result in a conflict of interest. Further evidence of bias is required, which the author has patently failed to provide.

6.6 As to Mr. Barbaro's contention that he was not informed of the availability of domestic remedies after the HREOC decision of 21 March 1995, the State party notes that neither the Convention nor the Australian RDA of 1975 impose an obligation to indicate all available appellate mechanisms to a complainant.

6.7 Finally, concerning the letters of support sent to HREOC on the author's behalf by a Member of Parliament, Mr. Peter Duncan, formerly a parliamentary secretary to the Attorney-General, the State party recalls that Federal Parliamentarians frequently write to HREOC on behalf of their constituents, advocating the rights of their constituents in their role as democratically elected representatives. The State party contends that this role must be distinguished from both the investigative role of the independent HREOC and the executive role of the parliamentary secretary to the Attorney-General. In the instant case, it was clear that

the M. P. acted on the author's behalf in his representative role. More importantly, the purpose of the letters was to urge a thorough investigation of the author's complaints by HREOC. Once a final decision in the case had been taken, Mr. Duncan did not write again.

7. During its forty-ninth session, in August 1996, the Committee considered the communication but concluded that further information from the State party was required before an informed decision on admissibility could be adopted. Accordingly, the State party was requested to clarify:

(a) Whether the author would have had the opportunity, in the event that complaints under the Administrative Decisions (Judicial Review) Act and pursuant to rule 98.01 of the Rules of the Supreme Court of South Australia had been dismissed, to appeal further to the Federal Court of Australia, or whether he could have complained directly to the Federal Court of Australia;

(b) Whether the State party consistently does, or does not, inform individuals in the author's situation of the availability of judicial remedies in their cases.

8.1 In reply, the State party notes that Mr. Barbaro would have had the opportunity to appeal to the Federal Court of Australia and subsequently the High Court of Australia in the event that a complaint under the ADJR Act had been dismissed. Under section 8, the Federal Court of Australia has jurisdiction to hear applications under the ADJR Act; applications may be filed in respect of decisions to which the Act applies, and decisions of the President of the HREOC fall within the definition of "decision(s) to which this Act applies" (sect. 3 (1)). The author thus had the right to seek judicial review of the President's decision before a single judge of the Federal Court of Australia on any of the grounds listed in section 5 of the ADJR Act relevant to his case, within 28 days of the decision of the HREOC President. If an application before a single Federal Court judge had been unsuccessful, the author would have had the right to seek leave to appeal to the full Federal Court.

8.2 If unsuccessful in the full Federal Court of Australia application, the author would have been further entitled to seek special leave to appeal to the High Court of Australia under Order 69A of the High Court Rules; criteria for granting special leave to appeal are listed in section 35A of the federal Judiciary Act 1903. If special leave to appeal were granted, a three-week period from the granting of special leave to appeal would apply for the filing of the notice of appeal.

8.3 The State party further notes that the author would have had an opportunity to appeal to the full court of the Supreme Court of South Australia and thereafter the High Court of Australia if a complaint under rule 98.01 of the Rules of the Supreme Court of South Australia had been dismissed by a single judge (section 50 of the Supreme Court Act, 1935 (South Australia)). Mr. Barbaro would have had to lodge an appeal within 14 days of the single judge's decision. If an appeal to the full court of South Australia had been unsuccessful, Mr. Barbaro could have sought special leave from the High Court of Australia to appeal against the decision of the full court of the Supreme Court of South Australia pursuant to section 35 of the Federal Judiciary Act, 1903.

8.4 The State party reiterates that the Convention does not impose an obligation to indicate all available appeal mechanisms to a complainant. There is no statutory obligation to provide individuals with information about possible judicial remedies under federal or South Australian law; nor is it the practice of the federal Government or the Government of South Australia to advise individuals about possible appeal rights. There are, however, some obligations to inform individuals of their appeal rights: thus, under the federal Race Discrimination Act, 1975, where the Race Discrimination Commissioner decides not to enquire into an action in respect of which a complaint was filed, he or she must inform the complainant of the ratio decidendi for that decision and of the complainant's rights to have this decision reviewed by the HREOC President (sect. 24 (3)). In Mr. Barbaro's case, this obligation was met. It is, moreover, the practice of HREOC to advise verbally any complainant who has manifested a desire to challenge a decision of the Commission's president of other avenues of appeal. There is no evidence that HREOC deviated from this practice in the author's case.

8.5 The State party notes that Mr. Barbaro does not appear to have sought legal advice on appeals and remedies available to him; it adds that it is common knowledge that a system of publicly funded legal aid exists in Australia, as well as a national network of community legal centres, including in South Australia. Both legal aid and community legal centres would have provided free legal advice about possible appeal mechanisms to individuals in the author's situation. Mr. Barbaro's failure to avail himself of such free legal advice cannot be attributed to the State party; reference is made to the Committee's jurisprudence that it is the author's own responsibility to exhaust domestic remedies.[c]

9.1 In his comments, the author concedes that the Race Discrimination Commissioner informed him of his right of review of her decision under section 24AA (1) of the Race Discrimination Act. He submits, however, that the President of HREOC did not inform him of the possibilities of any avenues of appeal against his decision, communicated to the author on 24 March 1995; he contends that the HREOC President, a former High Court judge, should have informed him of possible remedies. Mr. Barbaro adds that, as a layman, he could not have been aware of any other possible judicial remedies against the decision of the HREOC President.

9.2 The author reaffirms that an application to the Supreme Court of South Australia under rule 98.01 of the Court's rules would have been futile, given the Supreme Court's earlier judgement in the Alvaro case.

9.3 Finally, with regard to the State party's reference to the availability of legal advice from community legal centres, Mr. Barbaro submits that "such assistance is only available in extreme situations and ... only if the matter involves an indictable offence".

Committee's decision on admissibility of 14 August 1997

10.1 Before considering any claims contained in a communication, the Committee on the Elimination of Racial Discrimination must decide, pursuant to article 14, paragraph 7 (a), of the Convention, whether or not the case is admissible.

10.2 The Committee considered the question of admissibility of the present communication at its fifty-first session, in August 1997. It noted the State party's argument that the author's claims were inadmissible on the basis of failure to substantiate the racially discriminatory nature of the decision taken by the LLC in May 1987. It found, however, that the author had made specific allegations, notably insofar as they related to passages in the report of the Police Commissioner of South Australia which had been made available to the LLC, to support his contention that his national and/or ethnic background influenced the decision of the LLC. It therefore concluded that the author had sufficiently substantiated, for purposes of admissibility, his claims under article 5 (a) and (e) (i), read together with article 1, paragraph 1, of the Convention.

10.3 The Committee also noted the State party's claim that the author had failed to exhaust domestic remedies which were both available and effective, since he could have challenged the decision of the President of HREOC under the Administrative Decisions (Judicial Review) Act, and the decision of the LLC pursuant to rule 98.01 of the rules of the Supreme Court of South Australia. To such claims the author had replied that he had not been informed of the availability of those remedies, and that the precedent established by the judgement in Alvaro's case would have made an appeal to the Supreme Court of South Australia futile.

10.4 The Committee considered that it would have been incumbent upon the author's legal representative to inform him of possible avenues of appeal. The fact that he was not informed of potential judicial remedies by the judicial authorities of South Australia did not absolve him from seeking to pursue avenues of judicial redress; nor could the impossibility to do so at the time of the Committee's decision, after expiration of statutory deadlines for the filing of appeals, be attributed to the State party. The Committee further considered that the judgement of the Supreme Court of South Australia in Alvaro's case was not necessarily dispositive of the author's own case. Firstly, the judgement in Alvaro's case was a majority and not a unanimous judgement. Secondly, the judgement was delivered in respect of legal issues which were, as the State party pointed out, largely uncharted. In the circumstances, the existence of one judgement, albeit on issues similar to those in the author's case, did not absolve Mr. Barbaro from attempting to avail himself of the remedy under rule 98.01 of the Supreme Court rules. Finally, even if that recourse had failed, it would have been open to the author to appeal to Federal Court instances.

11. In the circumstances, the Committee concluded that the author had failed to meet the requirements of article 14, paragraph 7 (a), of the Convention and decided that the communication was inadmissible.[d]

New submission from the author

12.1 In a submission dated 28 November 1998 the author informs the Committee that following its findings of August 1997, he began proceedings in the Federal Court challenging the decision dated 21 March 1995 of the President of HREOC. He states that the recourse to the Federal Court was the only mechanism available. The Supreme Court could not be used for two reasons: the precedent established by Alvaro's case and its lack of jurisdiction to hear complaints of racial discrimination.

12.2 Justice O'Loughlin of the Federal Court heard the complaint on 14 May 1998 and delivered his decision on 29 May 1998. Justice O'Loughlin found that although he would have excused the delay in its submission the complaint had no reasonable prospects of success, inter alia, because racial discrimination could not be proved regardless of all the material at his disposal. On 19 June 1998 this decision was confirmed on appeal by the full Federal Court.

12.3 The author submits that his next legal move would be to challenge the full Court's decision. To do that he has first to be granted special leave to appeal to the High Court. However, for a matter to be heard by the High Court stringent tests must be met. For instance, it has to be established that there was an error of law. In cases of errors of fact, which this case apparently falls under, special leave to appeal will not be granted. In view of the fact that four Federal Court justices reached the same conclusion it would be futile to proceed any further. In its submission to the Committee the State party itself has conceded that one is not obliged to exhaust local remedies which are ineffective or objectively have no prospect of success.

Observations of the State party

13.1 In a submission dated August 1999 the State party challenges the author's claims to have exhausted domestic remedies. The State party maintains its submission that if the author were unsuccessful in his appeal to the full Federal Court he had the further right to seek special leave to appeal to the High Court under order 69A of the High Court rules. Special leave to appeal to the High Court is both an available and effective remedy within the meaning of article 14, paragraph 7 (a) and the general principles of international law. There was and is now no formal bar to the author pursuing this avenue. Although the author is out of time for instituting his application, it is also possible to seek an extension of time for special leave to appeal.

13.2 The State party contends that an individual is not absolved from pursuing all domestic remedies to finality on the grounds that he has been unsuccessful in previous appeals and predicts that he may be unsuccessful before a higher court unless there is recent, relevant and conclusive precedent on the issue. It recalls that in its decision in D.S. v. Sweden, communication No. 9/1997, the author contended before the Committee that there was no real possibility of obtaining redress through the Ombudsman or in a district court because of her lack of success on previous occasions. However, the Committee concluded that "notwithstanding the reservations that the author might have ... it was incumbent upon her to pursue the remedies available, including a complaint before a district court. Mere doubts about the effectiveness of such remedies or the belief that the resort to them may incur costs, do not absolve a complainant from pursuing them".

13.3 With respect to the author's claim that an action for judicial review of the decision of the LLC is not an available remedy, the State party refers the Committee to its previous admissibility decision in which the Committee held that the author had failed to exhaust domestic remedies on the grounds that he did not pursue review of the decision of the LLC pursuant to rule 98.01 of the rules of the Supreme Court of South Australia.[e] The State party contends that on this point the author seeks to challenge the Committee's decision and reopen the issue by arguing new grounds to support his claim to be absolved from pursuing judicial review in the Supreme Court.

13.4 The State party submits that repetitive submissions on a point already decided upon by the Committee may amount to an abuse of the right of petition under rule 91 (d) of the Committee's rules of procedure. Alternatively, the State party contests the author's claim and maintains its submission that he could have sued the LLC in the Supreme Court and has therefore failed to exhaust domestic remedies. An action for common law judicial review could have been brought in the Supreme Court of South Australia in two ways. First, the author could have sought a remedy under rule 98 of the Supreme Court's rules to have the Commissioner's decision quashed for legal error (certiorari), or declared void. Second, as an alternative, a declaration of invalidity could have been sought by the author outside rule 98. The possibility of a rule 98 application remains open even now, although leave of the Court is required. The alternative action of a declaration outside rule 98 could be pursued even now and does not require leave. Had the author been unsuccessful in judicial review proceedings pursuant to rule 98, he would have been entitled to appeal to the full court of the Supreme Court within 14 days. Furthermore, the author could have sought special leave from the High Court of Australia to appeal against the decision of the full court.

13.5 As to the author's assertion that the Supreme Court does not have jurisdiction to deal with issues of racial discrimination, the State party maintains that the LLC cannot lawfully exercise his discretion to refuse to approve employment on racial grounds. The court would either quash such a decision or declare it void. Therefore, judicial review of the decision of the LLC constitutes an effective remedy within the meaning of article 14, paragraph 7 (a). As for the precedent of Alvaro's case, the State party states that the court in that case did not decide that the Commissioner was immune to judicial review if he acts on racially discriminatory grounds when deciding not to grant approval of employment. The complainant had claimed that he was not given a fair hearing before approval was refused and the court merely held that a hearing did not have to be accorded to a person before the LLC refused approval. Racial discrimination was not alleged in that case. Furthermore, the court in Alvaro's case indicated that the LLC would be in breach of his duty if he refused approval for employment for improper considerations.

13.6 In addition to its argument regarding lack of exhaustion of domestic remedies the State party submits that the communication should be declared inadmissible on the ground that it is incompatible with the provisions of the Convention under rule 91 (c) of the Committee's rules of procedure. This submission is made on the grounds that the author is in fact requesting the Committee to review the HREOC decision that the evidence did not disclose racial discrimination, which would amount to review of the lawful exercise of the HREOC discretion not to investigate the claim. The State party understands the Committee may determine whether the laws or actions raise issues concerning, or interfere with, rights protected under the Convention. However, the Committee should be reluctant to go against the decision of an independent national body competent to deal with claims of racial discrimination when that body has assessed the evidence and made its determination according to domestic law which is directed to the implementation of the Convention. In this respect the State party quotes decisions of the Human Rights Committee in which the latter has stated inter alia that it is not within its powers or functions to evaluate the evidence in a case unless it can be ascertained that the court's decision was arbitrary or amounted to a denial of justice or that the judge otherwise violated his obligation of independence and impartiality. If the author had alleged that the HREOC decision

was tainted by arbitrariness or amounted to a denial of justice, or violated its obligation of independence an impartiality, such a matter would fall within the jurisdiction of the Committee. However, the author has made no such allegation and submitted no evidence to that effect.

Author's comments

14.1 In comments dated 25 October 1999 the author rebuts the State party's arguments. Regarding the special leave to appeal the full Federal Court's decision the author cites a decision (Morris v. R, 1987) which, in his opinion, supports his claim regarding the court's reluctance to grant special leave in a case like his. The court said, for instance, that "since the number of cases with which the court can properly deal in any one year is limited, it is inevitable that a careful choice must be made having regard to the duty, which the court has, to develop and clarify the law and to maintain procedural regularity in the courts below. The court must necessarily place greater emphasis upon its public role in the evolution of the law than upon the private rights of the litigants before it". Furthermore, in the Alvaro case the High Court refused to grant the applicant special leave to appeal. According to the author, the State party's submission regarding High Court availability, effectiveness and prospect of success is without foundation in the light of this precedent. The author also claims that during the previous proceedings at the High Court the State of South Australia requested that his case be summarily dismissed on the basis that he was unable to provide costs security. As any further court action would only exacerbate the costs situation there is no doubt that the State of South Australia would once again use this tactic.

14.2 With regard to the possibility of filing an application with the Supreme Court of South Australia the author persists with the arguments already put forward. He reiterates, in particular, that the Supreme Court is not the jurisdiction to remedy the racial discrimination to which he was subjected, in view of the fact that it has no authority to determine cases where breaches of Commonwealth racial discrimination law is alleged, either within or outside rule 98. The lack of jurisdiction is linked, in particular, to the fact that the LLC act was a case of "indirect discrimination". Indirect discrimination occurs when a rule, practice or policy which appears to be neutral has a disproportionate impact on the group of which the complainant is a member. The State party falls into error when it relies on the assumption that had the LLC acted dishonestly or with bias or capriciousness the Supreme Court would be an effective avenue of redress.

Issues and proceedings before the Committee

15.1 At its fifty-seventh session, in August 2000, the Committee considered again the question of admissibility of the communication in the light of the new information provided by the parties and in accordance with rule 93, paragraph 2 of the Committee's rules of procedure. Under that provision a decision taken by the Committee, in conformity with article 14, paragraph 7 (a), that a communication is inadmissible, may be reviewed at a later date upon written request by the petitioner concerned. Such written request shall contain documentary evidence to the effect that the reasons for inadmissibility referred to in article 14, paragraph 7 (a), are no longer applicable.

15.2 The Committee notes that the author appealed to the Federal Court but not to the High Court. In view of all the information at its disposal, the Committee considers that notwithstanding the reservations that the author might have regarding the effectiveness of such an appeal, it was incumbent upon him to pursue all remedies available.

15.3 In the light of the above, the Committee considers that the author has failed to meet the requirements of article 14, paragraph 7 (a), of the Convention.

16. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be communicated to the State party and the author of the communication.

Decision concerning communication No. 13/1998

Submitted by: Anna Koptova (represented by counsel)

Alleged victim: The author

State party concerned: Slovak Republic

Date of communication: 15 December 1998 (initial submission)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 8 August 2000,

Having concluded its consideration of communication No. 13/1998, submitted to the Committee under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Having taken into consideration all written information made available to it by the author and the State party,

Bearing in mind rule 95 of its rules of procedure requiring it to formulate its opinion on the communication before it,

Adopts the following:

Opinion

1. The author of the communication is Anna Koptova, a Slovak citizen of Romany ethnicity. She is the director of the Legal Defence Bureau for Ethnic Minorities of the Good Romany Fairy

Kesaj Foundation in Kosice and claims to be a victim of violations by the Slovak Republic of articles 2, 3, 4, 5 and 6 of the Convention. She is represented by the European Roma Rights Center, a non-governmental organization based in Budapest.

1.2 In conformity with article 14, paragraph 6 (a) of the Convention, the Committee transmitted the communication to the State party on 25 March 1998.

The facts as submitted by the author

2.1 The author reports that in 1981 seven Romany families from the villages of Rovne and Zbudske Dlhe, Slovak Republic, came to work in an agricultural cooperative located in the municipality of Krasny Brod. Shortly after their arrival each of the families sought and received permanent residence under Slovak Law (135/1982 Act) in what are today the municipalities of Nagov and Rokytovce (at the time part of Krasny Brod). When, at the end of 1989, the agricultural cooperative ceased operations the Romany families lost their jobs. Insofar as their living quarters at the cooperative were linked to their employment, they were compelled to leave the cooperative. Upon their departure, the authorities demolished the stables which they had occupied.

2.2 In May 1991 the Romany families returned to the municipalities where they were legally registered, i.e. Rokytovce and Nagov. For various periods over the following six years, they lived in temporary housing provided reluctantly by local authorities in the county of Medzilaborce. On more than one occasion during that period, however, anti-Roma hostility on the part of local officials and/or non-Romany residents forced the Romany families to flee. Thus, between May and December 1991 the Medzilaborce County Department of Social Affairs reserved a trailer for the families to rent. Although the families raised the money no village (Krasny Brod, Cabiny, Sukov, Rokytovce, Nagov or Cabalovce) allowed them to place the trailer on its territory. In 1993, after they had built temporary dwellings in the village of Cabiny, the dwellings were torn down by non-Romany residents. Throughout this period the Romany families were moving frequently from one town to another, in search of a permanent and secure home.

2.3 In spring 1997 the families again established temporary dwellings on agricultural land located in Cabiny. Local authorities from neighbouring villages met to discuss the situation. The mayor of Cabiny characterized as illegal the movement of Roma to Cabiny and warned of a possible negative reaction from the rest of the population. The mayors of Cabalovce and Nagov agreed to accommodate the homeless Roma. On 8 June 1997 the Municipal Council of Rokytovce, whose mayor had not been present at the above-mentioned meeting, enacted a resolution which expressly forbade the Romany families from settling in the village and threatened them with expulsion should they try to settle there. The resolution also declared that they were not native inhabitants of Rokytovce, since after the separation of Rokytovce and Krasny Brod in 1990 they had neither resided in the village nor claimed their permanent residence there. On 16 July 1997 the Municipality of Nagov adopted resolution No. 22 which also forbade Roma citizens to enter the village or to settle in shelters in the village district. The resolution explicitly provided that its effect was of permanent duration.

2.4 On 21 July 1997 the dwellings built and occupied by the Romany families in the municipality of Cabiny were set on fire. To date no perpetrator has been identified and there is no record of what, if any, steps the prosecution authorities have taken to investigate the facts.

2.5 The Kosice Legal Defence Foundation sent a letter to the General Prosecutor's Office in Bratislava requesting an investigation into the legality of Resolution No. 21 of the Municipal Council of Rokytovce and resolution No. 22 of the Municipal Council of Nagov. The letter asserted that the Resolutions were acts of "public discrimination" against Roma which infringed their rights to freedom of movement and residence and to protection against discrimination. On 19 September 1997 the General Prosecutor's Office informed the Foundation that the investigation had been assigned to the County Prosecutor in Humenné.

2.6 On 24 November 1997 the Kosice Legal Defence Foundation submitted an application to the Constitutional Court of the Slovak Republic requesting annulment of both resolutions. The submission stated that these resolutions violated the human rights and fundamental freedoms not only of Romany citizens with permanent residence in the respective towns but of all Romany citizens, as well as of the Foundation itself, which could not carry out its work on behalf of Roma in the affected towns. It also stated that nine Romany families with permanent residence in the two villages in question had been forced to leave and that the resolutions constituted a general ban against Romany citizens, pursuant to which no citizen of Romany origin was allowed to enter these villages. It requested the annulment of both resolutions on the grounds that they violated the rights of non-discrimination and freedom of movement and residence, as well as the particular rights of ethnic minorities protected by the Slovak Constitution.

2.7 In its decision of 18 December 1997 the Constitutional Court dismissed the submission on the ground that, as a legal person, the Kosice Legal Defence Foundation could not suffer an infringement of the constitutional rights set forth in its application, since those rights were designed to protect only natural persons. On 29 December 1997 the District Prosecutor's Office in Humenné notified the Foundation that, in view of the Constitutional Court's ruling, it had suspended its investigation concerning the challenged resolutions.

2.8 On 5 May 1998 Ms. Koptova, together with Miroslav Lacko (another employee of the Kosice Legal Defence Foundation) and Jan Lacko, one of the Romany citizens whose dwellings were destroyed on 21 July 1997, filed another submission before the Constitutional Court. This submission challenged the Nagov resolution on the grounds that it unlawfully restricted the freedom of movement and residence of a group of people solely because they were Roma. The submission argued that not only Jan Lacko, a permanent resident of Nagov, but all Roma in Slovakia, including Ms. Koptova, suffered infringements of their rights under the Slovak Constitution to freedom of movement and residence, freedom from racial and ethnic discrimination and freedom in the choice of nationality. On the same date Julia Demeterova, a permanent resident of Rokytovce and another of the Romany citizens whose dwellings had been destroyed, filed a submission with the Constitutional Court challenging the Rokytovce resolution on the same grounds.

2.9 On 16 June 1998 the Constitutional Court issued two written opinions dismissing both petitions on similar grounds. In response to Jan Lacko's submission the Court reasoned that, as a

permanent resident of Nagov, he had not provided any evidence to show that the Nagov resolution had in fact been applied in a manner which would infringe his rights. As to Miroslav Lacko and Ms. Koptova, both of whom had permanent residence outside Nagov, the Court found no evidence that either had tried to enter or move into the community of Nagov, or that the community had tried to stop them. Accordingly, the Court found, their rights had not been violated. With respect to Demeterova's submission the Court found that, as a permanent resident of Rokytovce, she had provided no evidence that the resolution had in fact been applied in a manner which infringed her rights.

2.10 Since the adoption of both resolutions at issue Anna Koptova has not gone to Rokytovce or Nagov. She fears that, as a Slovak citizen of Romany ethnicity, she would be subjected to violence if she were to enter either municipality.

The complaint

3.1 The author asserts that a number of rights to which she is entitled under the Convention have been violated, including the following:

> Article 2.1 (a). The institutions which have adopted the resolutions in question are local public authorities and public institutions. By maintaining the resolutions in force the Slovak Republic has engaged in acts of racial discrimination against the author and other Roma and has failed to ensure that all public authorities and public institutions, national and local, refrain from acts or practices of racial discrimination.
>
> Article 2.1 (c). By maintaining in force the resolutions at issue the Slovak Republic has failed to take any measures to review governmental, national and local policies and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination.
>
> Article 3. The Resolutions publicly and formally refer to the author and other persons by their assumed racial/ethnic identity and single them out for special treatment. As such, the Resolutions expressly endorse policies of racial segregation and apartheid. By refusing to withdraw them the Slovak Republic has contravened its obligation to prevent, prohibit and eradicate all practices of segregation and apartheid within its jurisdiction.
>
> Article 4 (c). By maintaining in force the resolutions at issue the Slovak Republic has failed to comply with its obligation not to permit public authorities or public institutions, national or local, to promote or incite racial discrimination against the author and other Roma.
>
> Article 5 (d) (i). The resolutions at issue expressly forbid the author and other Roma from entering the two municipalities solely because of their status as Roma. By adopting and maintaining in force these resolutions the Slovak Republic has infringed the author's right to freedom of movement and residence.

Article 6. The author complained to local law enforcement authorities and filed formal complaints with the Constitutional Court. However, each request for a remedy was rebuffed. The ruling of 16 June 1998 by the Constitutional Court represents the final domestic decision, from which no appeal is permitted. Accordingly, all domestic remedies have been exhausted.

3.2 The author states that she is a victim of the above violations for the purposes of article 14, paragraph 1, of the Convention. Both resolutions may be reasonably understood by the author, (as, indeed, by all Roma in Slovakia) to apply to her. The author would like to be free to visit Nagov and Rokytovce, for instance in order to further the work of her organization. However, she has not entered either municipality since the resolutions were adopted, in part because she fears that they could be enforced against her. The author believes that, by publicly and formally using the term "Roma" to refer to certain unspecified persons and by singling out such persons for special and invidious treatment, the resolutions subject her, as a person of Romany ethnicity, to degrading treatment.[f]

3.3 The author further argues that, in assessing her "victim" status, the Committee should also take into consideration jurisprudence of the European Court of Human Rights which entitles individuals to contend that a law violates their rights by itself, in the absence of an individual measure of implementation, if they run the risk of being directly affected by it.

3.4 Even though the author does not now and did not previously reside in the affected municipalities, she is among the class of persons defined by the challenged resolutions who are adversely affected by them. Both the text of the resolutions and the background of anti-Roma hostility which underlies their adoption make it reasonable to believe that the risk of additional adverse effect - i.e. that, if violated, the Resolutions might be enforced through, inter alia, physical force - is high.

3.5 Finally, the author asserts that the matter is not being examined under any other procedure of international investigation or settlement, although she notes that a separate case concerning the events giving rise to the present communication had been filed on behalf of other persons with the European Court of Human Rights.

State party's observations on admissibility

4.1 By submission of 23 June 1999 the State party challenges the admissibility of the communication. It informs the Committee that on 8 April 1999 the Municipal Council of Nagov and the Municipal Council of Rokytovce held extraordinary meetings, also attended by the District Prosecutor of Humenné, and decided to revoke resolution No. 22 of 16 June 1997 and resolution No. 21 of 8 June 1997 respectively. The State party therefore concludes that the communication has lost its relevance.

4.2 The State party further argues that a case concerning alleged racial discrimination against Roma caused by the adoption of the above-mentioned resolutions has been filed with the European Court of Human Rights. Although the applicants are not identical in the two cases, the subject matter is exactly the same.

4.3 According to the State party, the Roma inhabitants of Rokytovce were summoned by the District Prosecutor of Humenné by registered letters dated 20 November 1997. However, they failed to appear in the Prosecutor's Office, which means that they did not cooperate in establishing the facts of the case.

4.4 The State party also submits that the author has failed to exhaust domestic remedies. First of all, the Constitutional Court rejected the petition filed by the Legal Defence Bureau for Ethnic Minorities on the grounds that, as a legal entity, the Bureau could not challenge a violation of fundamental rights belonging to natural persons. The court, however, also noted that its decision was without prejudice to the right of natural persons to claim the violation of their fundamental rights as a result of decisions made by State or local administrative organs. On the basis of the court's decision the District Prosecutor of Humenné informed the author that her case would be discontinued. The author did not appeal the decision of the District Prosecutor, although it was possible to appeal in accordance with Act 314/1996 on the Prosecution Authority.

4.5 As for the decision of the Constitutional Court dated 16 June 1998 to reject the author's petition of 5 May 1998, the State party submits that nothing prevented the author from filing a new petition with the Constitutional Court submitting evidence of violation of her constitutional rights or a causal link between the violation of her rights and the decision of the municipal council.

4.6 Secondly, the State party submits that the author could have availed herself of the remedy provided for under section 13 of the Civil Code, according to which everyone is entitled to seek the protection of the State against violations of his/her integrity and to be given appropriate satisfaction; in the case of insufficient satisfaction, mainly because the dignity or respect that the person enjoyed in society was significantly harmed, the victim is entitled to compensation, to be determined by a court as appropriate.

4.7 The State party further submits that the resolutions of the Nagov and Rokytovce municipal councils were never implemented. During the time they remained in force no act of violence against persons belonging to the Roma minority took place and the Roma moved within the boundaries of the two municipalities without restrictions. The Roma registered as permanent residents in those municipalities when the resolutions were adopted continue to enjoy that status.

4.8 As for the author's claim that several provisions of the Convention, including article 2, paragraph 1 (a), have been violated, the State party indicates that, according to section 1, paragraphs 1 and 2, of the Act of the Slovak National Council No. 369/1990 Coll. on the Municipal System, a municipality is an independent self-governing territorial unit of the Slovak Republic and any interventions as to its powers and/or impositions of responsibilities are possible only by law. The two resolutions adopted by the municipal councils of Nagov and Rokytovce did not concern the performance of State administrative tasks transferred to the municipal level in the field of general public administration, neither did they concern security and public order affairs transferred to municipalities, in which case the control and supervision of a municipality could be applied pursuant to article 71, paragraph 2, of the Constitution.

4.9 The author never tried to move into either municipality, to acquire or rent a house or to work there. She showed no interest in visiting the municipalities in order to know the reasons for the issuing of the resolutions. She provided no evidence, to the Committee or the authorities involved in the case at the national level, that she had tried to enter the municipalities or that she had been prevented from doing so.

Counsel's comments

5.1 In a submission dated 2 August 1999 counsel contends that even if the challenged resolutions were withdrawn the communication is still admissible.

5.2 First of all, the author remains a "victim" within the meaning of article 14 of the Convention. The Committee could follow in this respect jurisprudence from the European Court of Human Rights according to which an applicant remains a "victim" unless the following conditions obtain: (i) there has been an acknowledgment by the domestic courts of a violation of the substance of the European Convention rights at issue; (ii) the applicant has received satisfaction with regard to the past damage suffered by reason of the violating provisions; and (iii) the applicant has received satisfaction with regard to a complaint that the violating provisions should not have been promulgated in the first place.

5.3 In the instant case none of those conditions has been satisfied: (i) at no time has the author received an acknowledgment by the domestic courts that the existence of the resolutions amounted to a violation of domestic law, of the Slovak Constitution, of the Convention or of any other treaty or international legal instrument protecting human rights; (ii) at no time has the author received satisfaction with regard to the past damage suffered by her by reason of the authorities' initial promulgation and subsequent maintenance in force of the resolutions for almost two years; (iii) at no time has the applicant received satisfaction with regard to her complaint that the resolutions should not have been issued in the first place. Accordingly, counsel concludes that the author is a "victim" within the meaning of article 14 and that the matter of the abolition of the resolutions is relevant only for the purpose of any suggestions and recommendations that the Committee might address to the State party at the conclusion of the case.

5.4 Further or alternative to the arguments made above, counsel submits that the Committee should in any event consider the author's claim for reasons of "general interest". The Committee ought to have jurisdiction to consider claims relevant to the general or public interest, even in exceptional cases where the victim requirement has not been satisfied. A case involving the promulgation and maintenance in force of resolutions banning an entire ethnic minority from residing or entering an entire municipality is precisely the kind of case that should satisfy a "general interest" rule.

5.5 Regarding the State party's argument that an application on the same matter has also been submitted to the European Court of Human Rights, counsel contends that the author had already informed the Committee about that. However, the application filed with the European Court by three other persons and alleging violations of the European Convention should in no way

preclude the author from filing a separate communication before the Committee complaining that the resolutions violate the Convention. Counsel cites jurisprudence of the Human Rights Committee adopting that approach.

5.6 Furthermore, even if the author had filed a separate application with the European Court of Human Rights concerning the same matter, there is no provision in the Convention expressly barring the Committee from examining a case that is already being examined by another international body.

5.7 The substantive features and intent behind this Convention and the European Convention are totally different. The application before the European Court alleges breaches of European Convention provisions, including the prohibition of inhuman and degrading treatment and the right to freedom of movement and choice of residence. It seeks, inter alia, a declaration that certain provisions of the European Convention have been violated and an award of just compensation. By contrast, the present communication alleges separate and different violations of the Convention on the Elimination of All Forms of Racial Discrimination (which is more concerned than the European Convention with the positive duties and obligations of States parties not to discriminate on the basis of race, colour or national origin) and seeks suggestions and recommendations concerning the Government's obligation to remedy the alleged violations. The simultaneous filings of claims involving similar matters with the Committee and the European Court are founded on different legal bases and seek different legal remedies. They are not, therefore, duplicitous claims.

5.8 Counsel further objects to the State party's argument that the author did not exhaust domestic remedies. He states that, according to international human rights jurisprudence, the local remedies rule requires the exhaustion of remedies that are available, effective and sufficient. A remedy is considered available if it can be pursued by the petitioner without impediment, it is deemed effective if it offers some prospect of success and it is found sufficient if it is capable of redressing the complaint. If a remedy is not available, effective or sufficient the individual is not required to pursue it.

5.9 First of all, there is no effective remedy available in the State party for any cases of racial discrimination. In its concluding observations on the Slovak Republic, dated 4 August 1997, the Human Rights Committee noted that independent complaint mechanisms for victims of all forms of discrimination did not exist. The European Commission against Racism and Intolerance (ECRI) has also noted the absence of effective legal remedies for racial discrimination in the State party.

5.10 Secondly, the author did exhaust all remedies available. As explained in the initial submission, the Kosice Legal Defence Foundation reported the matter to the Office of the General Prosecutor, requesting an investigation into the legality of the resolutions. Upon request, the Foundation provided the County Prosecutor in Humenné with the names of five persons from Nagov and four persons from Rokytovce who felt they had been discriminated against by the two resolutions. Soon afterwards the Foundation submitted an application to the Constitutional Court requesting annulment of both the resolutions at issue. The Court dismissed the submission on the ground that, as a legal person, the Foundation could not suffer an infringement of

constitutional rights designed to protect only natural persons. As a result of that ruling the District Prosecutor's Office decided to suspend its investigation, as it was not competent to examine decisions of the Constitutional Court. Subsequent to that, the present communication was filed with the Committee.

5.11 On 30 March 1999 the Departmental Secretary General of the Office of the Government of the Slovak Republic informed counsel that the Office of the General Prosecutor was reviewing the resolutions and that, if they were found illegal, a suggestion for withdrawal would be filed at the Constitutional Court, as the only organ with legal authority to withdraw resolutions of local government councils in order to guarantee their compliance with domestic and international law. On 31 May 1999 counsel was informed by the Chairman of the Committee on Human Rights and National Minorities of the Slovak Republic that the resolutions had been cancelled.

5.12 As for the State party's contention that the applicant did not cooperate with the investigation, counsel contends that whether or not the applicant failed to attend an interview at the Office of the General Prosecutor, which is not admitted, the Prosecutor was still under a domestic and international legal duty to investigate the complaint. The only circumstance in which the Prosecutor is not under such a duty is where the applicant's failure to attend the appointment would hinder the investigation. In other words, the applicant must be someone whose evidence is necessary in order to investigate the case. This exception clearly does not apply in the instant case, because the applicant's alleged failure to attend for an interview is not a hindrance to continuing investigation by the Prosecutor as to the compliance of the resolutions with domestic or international human rights norms. Indeed, despite the alleged failure of the applicant to appear for an interview, the authorities proceeded with their investigation until the decision of the Constitutional Court was promulgated.

5.13 The State party has failed to identify any basis for believing that the Office of the Prosecutor, having once rejected the complaint, would reach a different result if faced with a second, identical complaint, given the absence of new facts or law. Furthermore, on the basis of jurisprudence of the Constitutional Court, it is questionable whether the prosecutor possesses the legal power to remedy the violations of the Convention alleged in the instant case. In fact, in the letter sent to counsel on 30 March 1999, referred to above, the Government itself states that the only effective and available remedy in this case is an application to the Constitutional Court. Thus the Government has conceded that a complaint to the General Prosecutor is not an effective and available remedy because the Prosecutor's Office is not a judicial body.

5.14 Counsel also argues against the State party's contention that a civil action pursuant to article 11 of the Civil Code would be an effective remedy. The applicable provisions of the Civil Code regulate private relations, whereas the resolutions at issue are not matters of private individual rights. The municipalities that issued the resolutions are not private entities, therefore the Civil Code is inapplicable.

5.15 A civil remedy, even if available and effective, would be insufficient, insofar as a civil court in the Slovak Republic would not have legal authority to grant sufficient redress for the violations of the Convention that the applicant has suffered. Thus the civil court lacks the power to: (i) prosecute, sanction or otherwise punish the responsible municipal officials for racial

discrimination; (ii) declare that the existence of the resolutions amounted to a practice of racial discrimination and that such a practice is unacceptable and illegal; (iii) declare that the existence of the resolutions amounted to a violation of human rights laid down in international human rights instruments by which the Republic of Slovakia is bound; (iv) award satisfaction with regard to a complaint that the violating provisions should not have been made in the first place; (v) order cancellation of the resolutions. Furthermore, the author should only exhaust those remedies which are reasonably likely to prove effective.

5.16 Regarding the second constitutional action, filed by the author in her personal capacity, the State party contends that the author failed to present evidence of an actual attempt to enter the territories and that the author should have filed a new petition. According to counsel, these contentions lack merit. Insofar as the Constitutional Court had already dismissed several separate applications concerning the same resolutions, the suggestion that the author should be required to submit yet another petition, to the very same forum which had squarely rejected her claim, lacks logical or legal foundation.

5.17 As for the failure to present evidence, counsel reiterates its arguments concerning the "victim status" of the author and suggests that in assessing such status the Committee should be guided by the jurisprudence of the European Court, which entitles individuals to contend that a law violates their rights by itself, in the absence of an individual measure of implementation, if they run the risk of being directly affected by it. It is not necessary for the author to demonstrate that she was actually placed in an unfavourable position. The author has been personally affected by the resolutions in the following ways:

> Inhuman and degrading treatment. The author has personally suffered degrading treatment, direct emotional harm, loss of human dignity and humiliation owing to the existence of the two resolutions, a fact not altered by their subsequent cancellation. It is therefore not unreasonable that the applicant, as any other Romany person in Slovakia, feels that she has been personally offended and publicly shamed in a way different from the moral outrage which may be felt by even the most sympathetic of non-Roma.
>
> Subjection to undue restrictions on her personal freedoms. The author was affected by the threat of a potential use of violence; prevented from entering or settling in the vicinity of Nagov and Rokytovce, thereby violating her rights to freedom of movement and freedom to choose a residence; and prevented from having personal contact with persons in the vicinity of Nagov and Rokytovce, thereby violating her right to private life.
>
> The author has also been directly affected by the existence of the resolutions because she is affected by the atmosphere of racial discrimination around her.

5.18 The State party asserts that the municipalities that issued the resolutions are not "public authorities" or "public institutions" and that a municipality is "an independent self-governing territorial unit of the Slovak Republic". Counsel disagrees with that view, at least with respect to governmental responsibility for ensuring compliance with the Convention. Several provisions of the Constitution and the Municipality System Act No. 369/1990 suggest that there is a direct relationship between the State and the municipality, a relationship which makes it clear that the

municipalities are "public authorities" or "public institutions". The Committee itself has stated, in its General Recommendation XV on article 4 of the Convention, that the obligations of a "public authority" under the Convention include the obligations of a municipality. Although municipalities may be "independent self-governing territorial units", they are still State organs and part of the State administration and, therefore, public institutions within the meaning of article 2 (1) (a) of the Convention.

5.19 As for the fact that the resolutions were cancelled, the government measures of cancellation were not "effective measures" in the sense of article 2 (1) (c), because the cancellations were unreasonably delayed. Prior to cancellation the resolutions did violate the above-mentioned provision.

5.20 That the resolutions may not have been implemented through the particular means of criminal prosecution and conviction does not mean they did not breach the Convention. Part of the point and clearly the effect of the resolutions was to deter any Roma who might otherwise consider coming to the affected municipalities. The fact that no Roma dared to defy the resolutions would indicate that the mere passage and maintenance in force of the resolutions for almost two years succeeded in intimidating Roma and thus interfering with their rights under the Convention.

5.21 Finally, counsel provides observations by monitoring organizations documenting official and racially-motivated violence and discrimination against Roma in the State party.

Admissibility considerations

6.1 At its fifty-fifth session the Committee examined the admissibility of the communication. It duly considered the State party's claims that the communication should be considered inadmissible on several grounds.

6.2 First of all, the State party argued that the resolutions of the municipal councils in question were revoked and, therefore, the communication had lost its relevance. The Committee noted, however, that notwithstanding their abrogation the resolutions had remained in force from July 1997 to April 1999. Accordingly, the Committee had to examine whether during that time violations of the Convention had taken place as a result of their enactment.

6.3 Secondly, the State party contended that a similar case had been filed with the European Court of Human Rights. The Committee noted in that respect that the author of the present communication was not the petitioner before the European Court and that, even if she was, neither the Convention nor the rules of procedure prevented the Committee from examining a case that was also being considered by another international body.

6.4 Thirdly, the Committee did not share the State party's view that domestic remedies had not been exhausted and considered that neither a new petition to the Constitutional Court nor a civil action would be effective remedies in the circumstances of the case.

6.5 Fourthly, the Committee was of the view, contrary to the State party, that the author could be considered a "victim" within the meaning of article 14, paragraph 1, of the Convention, since she belonged to a group of the population directly targeted by the resolutions in question.

6.6 Finally, the Committee considered that the municipal councils which had adopted the resolutions were public authorities for the purposes of the implementation of the Convention.

6.7 The Committee found that all other conditions for admissibility established under rule 91 of its rules of procedure had been met. Accordingly, it decided, on 26 August 1999, that the communication was admissible. It also decided that, in order to enable the Committee to examine the case in all its aspects, the State party and the author should provide information about domestic legislation and remedies intended to protect the right of everyone, without distinction as to race, colour, or national or ethnic origin, to freedom of movement and residence within the border of the State, in accordance with article 5 (d) (i) of the Convention.

Further observations by the State party

7.1 The State party admits that the investigation of the complaint carried out by the District Prosecutor's Office of Humenné was incomplete, since it did not address the substantive aspects. However, the Legal Defence Bureau for Ethnic Minorities did not make use of their legal possibility to have the lawfulness of the resolutions in question reviewed. A complaint pursuant to section 11, paragraph 1 of Act No. 314/1996 Coll.[g] to the prosecution authority or a motion by the Prosecutor-General with the Constitutional Court for incompatibility of the resolutions in question with the Constitution could have been filed. As the Legal Defence Bureau failed to utilize these possibilities, neither the regional nor the general prosecution authorities knew about the way in which the District Prosecutor's Office of Humenné had handled the complaint. The State party emphasizes that the Slovak legal order has effective, applicable, generally available and sufficient means of legal protection against discrimination.

7.2 The State party acknowledges that the adoption of the resolutions in question in 1997 created an unlawful situation which lasted until their abrogation in 1999. However, during the time they remained in force no violation of human rights took place since they were not applied against anybody. The Constitutional Court found in that respect that the applicants had provided no evidence of the violation of their rights and freedoms.[h]

7.3 The State party further submits that no direct violation of the right to freedom of movement and choice of residence, as guaranteed by article 5 (d) (i) of the Convention, took place in the present case. The legal order of the Slovak Republic guarantees the equality of citizens before the law.[i] Freedom of movement and residence is also guaranteed to all persons staying in the territory of the State party regardless of their citizenship.[j] The freedom of residence is understood as the right of citizens to choose without any restrictions their place of residence. This right may only be limited as a result of a penal sanction. A ban on residence can be imposed as a sanction only for intentional crimes, can never be imposed on juveniles and cannot apply to the place where the offender has permanent residence. Restrictions to the freedom of movement and residence can only be based on a parliamentary act and never on decisions of the Government or other bodies of State administration.

Counsel's comments

8.1 Counsel notes the State party's acknowledgement that the resolutions in question were unlawful. As a result, the only relevant issues left for the Committee to decide are, firstly, whether the applicant is a victim for the purposes of a complaint under the Convention and, secondly, whether the subsequent abolition of the resolutions affects the validity of the complaint to the Committee.

8.2 In its admissibility decision the Committee already addressed the first issue when it stated that the author could be considered a "victim" within the meaning of article 14, paragraph 1, of the Convention, since she belonged to a group of the population directly targeted by the resolutions in question.[k] The Committee also addressed the second issue when it noted that, notwithstanding their abrogation, the resolutions had remained in force from July 1997 to April 1999 and that it had to examine whether during that time violations of the Convention had taken place as a result of their enactment.[l]

8.3 Finally, counsel states that the points raised by the State party in its observations on the merits have already been addressed in his submission of 2 August 1999.

Additional information submitted by the State party

9.1 Upon the Committee's request the State party provided copy of records of the municipal councils of Rokytovce and Nagov containing the texts of resolutions Nos. 21 and 22 respectively.

9.2 The English version of the record referring to resolution No. 21 reads as follows:

> "The extraordinary meeting was convoked based on the minutes [of the meeting] of mayors of settlements of Cabina, Nagov, Cabalovce, Krasny Brod and Rokytovce in connection with Roma citizens that are homeless in the District of Medzilaborce.
>
> "Deputies of the Municipal Council after reading and studying the Minutes have adopted the following standpoint on the matter in question:
>
> > The deputies have univocally stated and they declare herewith that those Roma are not native citizens of Rokytovce, but they are immigrants from settlements of Rovné and Zbudské. In 1981 one family moved there as employees of the JRD (Unified Agricultural Co-operative) Krásny Brod . . .
> >
> > In 1981 they received permanent residence status from . . . the former Secretary of the Municipal National Committee in Krásny Brod, as the settlement of Rokytovce did not exist as an independent settlement and it was then only a part of the settlement of Krásny Brod. The family was officially registered/reported at a house as tenants . . .

In 1989 the Roma moved from the settlement to the settlement of Sukov (?) as there was work for them there.

After the settlement of Rokytovce became independent in 1990, the Roma citizens did not live there; neither did they report there for permanent residence. As a result we do not count them among our citizens.

Based on findings from the registered entries in the House Book it was ascertained that of five proposed Roma that should return back to the settlement of Rokytovce, only two of them have permanent residence in Rokytovce, those being Júlia Demetrová and Valéria Demetrová.

The Municipal Council declared in conclusion that in case the Roma would forcefully move into the settlement, they would be, with the help of all citizens, evicted from the settlement."

9.3 Resolution No. 22 of 16 July 1997, as amended by resolution No. 27/98, indicates the following: "The Municipal Council cannot agree with accommodation of the Roma citizens in the cadastral territory of Nagov, as they do not have any ownership rights, nor origin, nor accommodation, nor jobs (employment) in the settlement of Nagov."

Examination of the merits

10.1 Having received the full texts of resolutions 21 and 22 the Committee finds that, although their wording refers explicitly to Romas previously domiciled in the concerned municipalities, the context in which they were adopted clearly indicates that other Romas would have been equally prohibited from settling, which represented a violation of article 5 (d) (i) of the Convention.

10.2 The Committee notes, however, that the resolutions in question were rescinded in April 1999. It also notes that freedom of movement and residence is guaranteed under article 23 of the Constitution of the Slovak Republic.

10.3 The Committee recommends that the State party take the necessary measures to ensure that practices restricting the freedom of movement and residence of Romas under its jurisdiction are fully and promptly eliminated.

Notes

[a] See opinions adopted by the Committee in L.K. v. the Netherlands (CERD/C/42/D/4/1991), Yilmaz-Dogan v. the Netherlands (CERD/C/36/D/1/1984) and Habassi v. Denmark (CERD/C/54/D/10/1997).

[b] Wassink v. The Netherlands, judgement of 27 September 1990.

[c] See decision on communication No. 5/1994 (C.P. and his son v. Denmark) in Official Records of the General Assembly, Fiftieth Session, Supplement No. 18 (A/50/18), annex VIII, para 6.2

[d] CERD/C/51/D/7/1995.

[e] Paragraph 10.4 above.

[f] In so doing the author relies upon jurisprudence of the European Commission on Human Rights, in particular its decision in East African Asians v. United Kingdom, in which the Commission found that challenged immigration legislation had publicly subjected the applicants to racial discrimination and constituted an interference with their human dignity, amounting to "degrading treatment" in the sense of article 3 of the European Convention on Human Rights.

[g] Pursuant to section 30, paragraph 1.2 of this Act, the prosecutor shall, upon his own initiative or upon a petition, review the procedure or decisions by public administrative bodies, decisions of a court, prosecutor, investigator or police body for compliance with the law. The person who filed the petition may request a review as to the lawfulness of its processing with a repeated petition which shall be processed by the superior body.

Pursuant to section 11 of the same Act, prosecutors shall file protests against generally binding pieces of legislation, municipal binding regulations, guidelines, amendments, resolutions, other legal acts and decisions by public administrative bodies issued in individual cases which violate the law. If the protest was filed with the body which issued the decision, this body can either repeal the decision being challenged or replace it with a decision complying with the law. If this body does not fully accept the protest, it has the duty to submit it to a superior or monitoring body. The prosecutor may file a new protest against the decision rejecting the protest.

[h] See paragraph 2.9.

[i] Article 12, paragraph 2, of the Constitution stipulates that fundamental rights and freedoms are guaranteed to all regardless of their gender, race, colour, language, faith and religion, political or other views, national or social origin, belonging to a national minority or ethnic group, etc. Article 33 stipulates that membership in any national minority or ethnic group may not be used to the detriment of any individual. Article 34 states that citizens belonging to national minorities or ethnic groups shall be guaranteed their full development, particularly the rights to promote their cultural heritage with other citizens of the same national minority or ethnic group, receive and disseminate information in their mother tongues, form associations and create and maintain educational and cultural institutions.

[j] Article 23 of the Constitution.

[k] See paragraph 6.5.

[l] See paragraph 6.2.

Annex IV

DOCUMENTS RECEIVED BY THE COMMITTEE AT ITS FIFTY-SIXTH AND FIFTY-SEVENTH SESSIONS IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

The following is a list of the working papers referred to in chapter V submitted by the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples:

American Samoa	A/CN.109/1999/13
Anguilla	A/CN.109/1999/8
Bermuda	A/CN.109/1999/3
British Virgin Islands	A/CN.109/1999/9
Cayman Islands	A/CN.109/1999/4
East Timor	A/CN.109/1999/10 and Corr.1
Falkland Islands (Malvinas)	A/CN.109/1999/12
Gibraltar	A/CN.109/1999/5
Guam	A/CN.109/1999/14
Montserrat	A/CN.109/1999/15
New Caledonia	A/CN.109/1999/6 and Corr.1
Pitcairn	A/CN.109/1999/1 and Corr.1
St. Helena	A/CN.109/1999/16
Turks and Caicos Islands	A/CN.109/1999/18
Tokelau	A/CN.109/1999/17
United States Virgin Islands	A/CN.109/1999/7 and Corr.1
Western Sahara	A/CN.109/1999/11

Annex V

GENERAL RECOMMENDATIONS

At its fifty-sixth session the Committee adopted the following general recommendations.

A. General recommendation XXV on gender-related dimensions of racial discrimination

1. The Committee notes that racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgement of the different life experiences of women and men, in areas of both public and private life.

2. Certain forms of racial discrimination may be directed towards women specifically because of their gender, such as sexual violence committed against women members of particular racial or ethnic groups in detention or during armed conflict; the coerced sterilization of indigenous women; abuse of women workers in the informal sector or domestic workers employed abroad by their employers. Racial discrimination may have consequences that affect primarily or only women, such as pregnancy resulting from racial bias-motivated rape; in some societies women victims of such rape may also be ostracized. Women may also be further hindered by a lack of access to remedies and complaint mechanisms for racial discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life.

3. Recognizing that some forms of racial discrimination have a unique and specific impact on women, the Committee will endeavour in its work to take into account gender factors or issues which may be interlinked with racial discrimination. The Committee believes that its practices in this regard would benefit from developing, in conjunction with the States parties, a more systematic and consistent approach to evaluating and monitoring racial discrimination against women, as well as the disadvantages, obstacles and difficulties women face in the full exercise and enjoyment of their civil, political, economic, social and cultural rights on grounds of race, colour, descent, or national or ethnic origin.

4. Accordingly, the Committee, when examining forms of racial discrimination, intends to enhance its efforts to integrate gender perspectives, incorporate gender analysis, and encourage the use of gender-inclusive language in its sessional working methods, including its review of reports submitted by States parties, concluding observations, early warning mechanisms and urgent action procedures, and general recommendations.

5. As part of the methodology for fully taking into account the gender-related dimensions of racial discrimination, the Committee will include in its sessional working methods an analysis of the relationship between gender and racial discrimination, by giving particular consideration to:

(a) The form and manifestation of racial discrimination;

(b) The circumstances in which racial discrimination occurs;

(c) The consequences of racial discrimination; and

(d) The availability and accessibility of remedies and complaint mechanisms for racial discrimination.

6. Noting that reports submitted by States parties often do not contain specific or sufficient information on the implementation of the Convention with respect to women, States parties are requested to describe, as far as possible in quantitative and qualitative terms, factors affecting and difficulties experienced in ensuring the equal enjoyment by women, free from racial discrimination, of rights under the Convention. Data which have been categorized by race or ethnic origin, and which are then disaggregated by gender within those racial or ethnic groups, will allow the States parties and the Committee to identify, compare and take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed.

1391st meeting
20 March 2000

B. General recommendation XXVI on article 6 of the Convention

1. The Committee on the Elimination of Racial Discrimination believes that the degree to which acts of racial discrimination and racial insults damage the injured party's perception of his/her own worth and reputation is often underestimated.

2. The Committee notifies States parties that, in its opinion, the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination, which is embodied in article 6 of the Convention, is not necessarily secured solely by the punishment of the perpetrator of the discrimination; at the same time, the courts and other competent authorities should consider awarding financial compensation for damage, material or moral, suffered by a victim, whenever appropriate.

1399th meeting
24 March 2000

At its fifty-seventh session, the Committee adopted the following general recommendation.

C. General recommendation XXVII on discrimination against Roma

The Committee on the Elimination of Racial Discrimination,

Having in mind the submissions from States parties to the International Convention for the Elimination of All Forms of Racial Discrimination, their periodic reports submitted under article 9 of the Convention, as well as the concluding observations adopted by the Committee in connection with the consideration of States parties' periodic reports;

Having organized a thematic discussion on the issue of discrimination against Roma and received the contributions of members of the Committee, as well as contributions by experts from United Nations bodies and other treaty bodies and from regional organizations,

Having also received the contributions of interested non-governmental organizations, both orally during the informal meeting organized with them and through written information,

Taking into account the provisions of the Convention,

Recommends that the States parties to the Convention, taking into account their specific situations, adopt for the benefit of members of the Roma communities, inter alia, all or part of the following measures, as appropriate.

1. Measures of a general nature

1. To review and enact or amend legislation, as appropriate, in order to eliminate all forms of racial discrimination against Roma as against other persons or groups, in accordance with the Convention.

2. To adopt and implement national strategies and programmes and express determined political will and moral leadership, with a view to improving the situation of Roma and their protection against discrimination by State bodies, as well as by any person or organization.

3. To respect the wishes of Roma as to the designation they want to be given and the group to which they want to belong.

4. To ensure that legislation regarding citizenship and naturalization does not discriminate against members of Roma communities.

5. To take all necessary measures in order to avoid any form of discrimination against immigrants or asylum-seekers of Roma origin.

6. To take into account, in all programmes and projects planned and implemented and in all measures adopted, the situation of Roma women, who are often victims of double discrimination.

7. To take appropriate measures to secure for members of Roma communities effective remedies and to ensure that justice is fully and promptly done in cases concerning violations of their fundamental rights and freedoms.

8. To develop and encourage appropriate modalities of communication and dialogue between Roma communities and central and local authorities.

9. To endeavour, by encouraging a genuine dialogue, consultations or other appropriate means, to improve the relations between Roma communities and non-Roma communities, in particular at local levels, with a view to promoting tolerance and overcoming prejudices and negative stereotypes on both sides, to promoting efforts for adjustment and adaptation and to avoiding discrimination and ensuring that all persons fully enjoy their human rights and freedoms.

10. To acknowledge wrongs done during the Second World War to Roma communities by deportation and extermination and consider ways of compensating for them.

11. To take the necessary measures, in cooperation with civil society, and initiate projects to develop the political culture and educate the population as a whole in a spirit of non-discrimination, respect for others and tolerance, in particular concerning Roma.

2. Measures for protection against racial violence

12. To ensure protection of the security and integrity of Roma, without any discrimination, by adopting measures for preventing racially motivated acts of violence against them; to ensure prompt action by the police, the prosecutors and the judiciary for investigating and punishing such acts; and to ensure that perpetrators, be they public officials or other persons, do not enjoy any degree of impunity.

13. To take measures to prevent the use of illegal force by the police against Roma, in particular in connection with arrest and detention.

14. To encourage appropriate arrangements for communication and dialogue between the police and Roma communities and associations, with a view to preventing conflicts based on racial prejudice and combating acts of racially motivated violence against members of these communities, as well as against other persons.

15. To encourage recruitment of members of Roma communities into the police and other law enforcement agencies.

16. To promote action in post-conflict areas, by States parties and from other responsible States or authorities in order to prevent violence against and forced displacement of members of the Roma communities.

3. Measures in the field of education

17. To support the inclusion in the school system of all children of Roma origin and to act to reduce drop-out rates, in particular among Roma girls, and, for these purposes, to cooperate actively with Roma parents, associations and local communities.

18. To prevent and avoid as much as possible the segregation of Roma students, while keeping open the possibility for bilingual or mother-tongue tuition; to this end, to endeavour to raise the quality of education in all schools and the level of achievement in schools by the minority community, to recruit school personnel from among members of Roma communities and to promote intercultural education.

19. To consider adopting measures in favour of Roma children, in cooperation with their parents, in the field of education.

20. To act with determination to eliminate any discrimination or racial harassment of Roma students.

21. To take the necessary measures to ensure a process of basic education for Roma children of travelling communities, including by admitting them temporarily to local schools, by temporary classes in their places of encampment, or by using new technologies for distance education.

22. To ensure that their programmes, projects and campaigns in the field of education take into account the disadvantaged situation of Roma girls and women.

23. To take urgent and sustained measures in training teachers, educators and assistants from among Roma students.

24. To act to improve dialogue and communication between the teaching personnel and Roma children, Roma communities and parents, using more often assistants chosen from among the Roma.

25. To ensure adequate forms and schemes of education for members of Roma communities beyond school age, in order to improve adult literacy among them.

26. To include in textbooks, at all appropriate levels, chapters about the history and culture of Roma, and encourage and support the publication and distribution of books and other print materials as well as the broadcasting of television and radio programmes, as appropriate, about their history and culture, including in languages spoken by them.

4. Measures to improve living conditions

27. To adopt or make more effective legislation prohibiting discrimination in employment and all discriminatory practices in the labour market affecting members of Roma communities, and to protect them against such practices.

28. To take special measures to promote the employment of Roma in the public administration and institutions, as well as in private companies.

29. To adopt and implement, whenever possible, at the central or local level, special measures in favour of Roma in public employment such as public contracting and other activities undertaken or funded by the Government, or training Roma in various skills and professions.

30. To develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing; to involve Roma communities and associations as partners together with other persons in housing project construction, rehabilitation and maintenance.

31. To act firmly against any discriminatory practices affecting Roma, mainly by local authorities and private owners, with regard to taking up residence and access to housing; to act firmly against local measures denying residence to and unlawful expulsion of Roma, and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities.

32. To take the necessary measures, as appropriate, for offering Roma nomadic groups or Travellers camping places for their caravans, with all necessary facilities.

33. To ensure Roma equal access to health care and social security services and to eliminate any discriminatory practices against them in this field.

34. To initiate and implement programmes and projects in the field of health for Roma, mainly women and children, having in mind their disadvantaged situation due to extreme poverty and low level of education, as well as to cultural differences; to involve Roma associations and communities and their representatives, mainly women, in designing and implementing health programmes and projects concerning Roma groups.

35. To prevent, eliminate and adequately punish any discriminatory practices concerning the access of members of the Roma communities to all places and services intended for the use of the general public, including restaurants, hotels, theatres and music halls, discotheques and others.

5. Measures in the field of the media

36. To act as appropriate for the elimination of any ideas of racial or ethnic superiority, of racial hatred and incitement to discrimination and violence against Roma in the media, in accordance with the provisions of the Convention.

37. To encourage awareness among professionals of all media of the particular responsibility to not disseminate prejudices and to avoid reporting incidents involving individual members of Roma communities in a way which blames such communities as a whole.

38. To develop educational and media campaigns to educate the public about Roma life, society and culture and the importance of building an inclusive society while respecting the human rights and the identity of the Roma.

39. To encourage and facilitate access by Roma to the media, including newspapers and television and radio programmes, the establishment of their own media, as well as the training of Roma journalists.

40. To encourage methods of self-monitoring by the media, through a code of conduct for media organizations, in order to avoid racial, discriminatory or biased language.

6. Measures concerning participation in public life

41. To take the necessary steps, including special measures, to secure equal opportunities for the participation of Roma minorities or groups in all central and local governmental bodies.

42. To develop modalities and structures of consultation with Roma political parties, associations and representatives, both at central and local levels, when considering issues and adopting decisions on matters of concern to Roma communities.

43. To involve Roma communities and associations and their representatives at the earliest stages in the development and implementation of policies and programmes affecting them and to ensure sufficient transparency about such policies and programmes.

44. To promote more awareness among members of Roma communities of the need for their more active participation in public and social life and in promoting their own interests, for instance the education of their children and their participation in professional training.

45. To organize training programmes for Roma public officials and representatives, as well as for prospective candidates to such responsibilities, aimed at improving their political, policy-making and public administration skills.

The Committee also recommends that:

46. States parties include in their periodic reports, in an appropriate form, data about the Roma communities within their jurisdiction, including statistical data about Roma participation in political life and about their economic, social and cultural situation, including from a gender perspective, and information about the implementation of this general recommendation.

47. Intergovernmental organizations, in their projects of cooperation and assistance to the various States parties, as appropriate, address the situation of Roma communities and favour their economic, social and cultural advancement.

48. The High Commissioner for Human Rights consider establishing a focal point for Roma issues within the Office of the High Commissioner.

The Committee further recommends that:

49. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance give due consideration to the above recommendations, taking into account the place of the Roma communities among those most disadvantaged and most subject to discrimination in the contemporary world.

1424th meeting
16 August 2000

Annex VI

COUNTRY RAPPORTEURS FOR REPORTS OF STATES PARTIES CONSIDERED BY THE COMMITTEE AT ITS FIFTY-SIXTH AND FIFTY-SEVENTH SESSIONS

State party	Country rapporteur
AUSTRALIA (CERD/C/335/Add.2)	Gay McDougall
BAHRAIN (CERD/C/353/Add.1/Rev.1)	Luis Valencia Rodríguez
CZECH REPUBLIC (CERD/C/372/Add.1)	Marc Bossuyt
DENMARK (CERD/C/362/Add.1)	Mario Jorge Yutzis
ESTONIA (CERD/C/329/Add.2)	Mario Jorge Yutzis
FINLAND (CERD/C/363/Add.2)	Ion Diaconu
FRANCE (CERD/C/337/Add.5)	Michael Banton
GHANA (CERD/C/338/Add.5)	Gay McDougall
HOLY SEE (CERD/C/338/Add.11)	Luis Valencia Rodríguez
LESOTHO (CERD/C/337/Add.1)	Gay McDougall
MALTA (CERD/C/337/Add.3)	Ion Diaconu
MAURITIUS (CERD/C/362/Add.2)	François Fall
NEPAL (CERD/C/337/Add.4)	Carlos Lechuga Hevia

State party	Country rapporteur
NETHERLANDS (CERD/C/362/Add.4)	Brun-Otto Bryde
NORWAY (CERD/C/363/Add.3)	Patricia January-Bardill
SLOVAKIA (CERD/C/328/Add.1)	Raghavan Pillai
SLOVENIA (CERD/C/352/Add.1)	Yuri Rechetov
SPAIN (CERD/C/338/Add.6)	Yuri Rechetov
RWANDA (CERD/C/335/Add.1)	Peter Nobel
SWEDEN (CERD/C/362/Add.5)	Régis de Gouttes
TONGA (CERD/C/362/Add.3)	Luis Valencia Rodríguez
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (CERD/C/338/Add.12 (Part I) and CERD/C/338/Add.12 (Part II))	Agha Shahi
UZBEKISTAN (CERD/C/327/Add.1)	Peter Nobel
ZIMBABWE (CERD/C/329/Add.1)	Peter Nobel

Annex VII

LIST OF DOCUMENTS ISSUED FOR THE FIFTY-SIXTH AND FIFTY-SEVENTH SESSIONS OF THE COMMITTEE

CERD/C/385	Provisional agenda and annotations of the fifty-sixth session of the Committee
CERD/C/386	Submission of reports by States parties under article 9, paragraph 1, of the Convention for the fifty-sixth session of the Committee
CERD/C/387	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention
CERD/C/388	Provisional agenda and annotations of the fifty-seventh session of the Committee
CERD/C/389	Submission of reports by States parties under article 9, paragraph 1, of the Convention for the fifty-seventh session of the Committee
CERD/C/390	Compilation of opinions and decisions adopted by the Committee under article 14 of the Convention
CERD/C/SR.1372-1399	Summary records of the fifty-sixth session of the Committee
CERD/C/SR.1400-1437	Summary records of the fifty-seventh session of the Committee
CERD/C/327/Add.1	Initial and second periodic reports of Uzbekistan submitted in one document
CERD/C/304/Add.91	Concluding observations of the Committee on the Elimination of Racial Discrimination - France
CERD/C/304/Add.92	Concluding observations of the Committee on the Elimination of Racial Discrimination - Zimbabwe

CERD/C/304/Add.93	Concluding observations of the Committee on the Elimination of Racial Discrimination - Denmark
CERD/C/304/Add.94	Concluding observations of the Committee on the Elimination of Racial Discrimination - Malta
CERD/C/304/Add.95	Concluding observations of the Committee on the Elimination of Racial Discrimination - Spain
CERD/C/304/Add.96	Concluding observations of the Committee on the Elimination of Racial Discrimination - Tonga
CERD/C/304/Add.97	Concluding observations of the Committee on the Elimination of Racial Discrimination - Rwanda
CERD/C/304/Add.98	Concluding observations of the Committee on the Elimination of Racial Discrimination - Estonia
CERD/C/304/Add.99	Concluding observations of the Committee on the Elimination of Racial Discrimination - Lesotho
CERD/C/304/Add.100	Concluding observations of the Committee on the Elimination of Racial Discrimination - Bahrain
CERD/C/304/Add.101	Concluding observations of the Committee on the Elimination of Racial Discrimination - Australia
CERD/C/304/Add.102	Concluding observations of the Committee on the Elimination of Racial Discrimination - Finland
CERD/C/304/Add.103	Concluding observations of the Committee on the Elimination of Racial Discrimination - Mauritius
CERD/C/304/Add.104	Concluding observations of the Committee on the Elimination of Racial Discrimination - Slovenia
CERD/C/304/Add.105	Concluding observations of the Committee on the Elimination of Racial Discrimination - Slovakia
CERD/C/304/Add.106	Concluding observations of the Committee on the Elimination of Racial Discrimination - Czech Republic
CERD/C/304/Add.107	Concluding observations of the Committee on the Elimination of Racial Discrimination - Nepal

CERD/C/304/Add.108	Concluding observations of the Committee on the Elimination of Racial Discrimination - Netherlands
CERD/C/304/Add.109	Concluding observations of the Committee on the Elimination of Racial Discrimination - Sweden
CERD/C/304/Add.110	Concluding observations of the Committee on the Elimination of Racial Discrimination - United Kingdom of Great Britain and Northern Ireland
CERD/C/304/Add.111	Concluding observations of the Committee on the Elimination of Racial Discrimination - Ghana
CERD/C/304/Add.112	Concluding observations of the Committee on the Elimination of Racial Discrimination - Holy See
CERD/C/304/Add.113	Concluding observations of the Committee on the Elimination of Racial Discrimination - Norway
CERD/C/304/Add.114	Concluding observations of the Committee on the Elimination of Racial Discrimination - Uzbekistan
CERD/C/327/Add.1	Initial and second periodic reports of Uzbekistan submitted in one document
CERD/C/328/Add.1	Initial, second and third periodic reports of Slovakia submitted in one document
CERD/C/329/Add.1	Second, third and fourth periodic reports of Zimbabwe submitted in one document
CERD/C/329/Add.2	Initial, second, third and fourth periodic reports of Estonia submitted in one document
CERD/C/335/Add.1	Eighth, ninth, tenth, eleventh and twelfth periodic reports of Rwanda submitted in one document
CERD/C/335/Add.2	Tenth, eleventh and twelfth periodic reports of Australia submitted in one document
CERD/C/337/Add.1	Seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports of Lesotho submitted in one document

CERD/C/337/Add.3	Thirteenth and fourteenth periodic reports of Malta submitted in one document
CERD/C/337/Add.4	Fourteenth periodic report of Nepal
CERD/C/337/Add.5	Twelfth, thirteenth and fourteenth periodic reports of France submitted in one document
CERD/C/338/Add.5	Twelfth, thirteenth, fourteenth and fifteenth periodic reports of Ghana submitted in one document
CERD/C/338/Add.6	Fourteenth and fifteenth periodic reports of Spain submitted in one document
CERD/C/338/Add.11	Thirteenth, fourteenth and fifteenth periodic reports of the Holy See submitted in one document
CERD/C/338/Add.12 (Part I) and CERD/C/338/ Add.12 (Part II)	Fifteenth periodic report of the United Kingdom of Great Britain and Northern Ireland and dependent territories
CERD/C/352/Add.1	Initial, second, third and fourth periodic reports of Slovenia submitted in one document
CERD/C/353/Add.1/Rev.1	Initial, second, third, fourth and fifth periodic reports of Bahrain submitted in one document
CERD/C/362/Add.1	Fourteenth periodic report of Denmark
CERD/C/362/Add.2	Thirteenth and fourteenth periodic reports of Mauritius submitted in one document
CERD/C/362/Add.3	Fourteenth periodic report of Tonga
CERD/C/362/Add.4	Thirteenth and fourteenth periodic reports of the Netherlands submitted in one document
CERD/C/362/Add.5	Thirteenth and fourteenth periodic reports of Sweden submitted in one document
CERD/C/363/Add.2	Fifteenth periodic report of Finland
CERD/C/363/Add.3	Fifteenth periodic report of Norway
CERD/C/372/Add.1	Third and fourth periodic reports of the Czech Republic submitted in one document

Annex VIII

STATES PARTIES AND INTERGOVERNMENTAL ORGANIZATIONS WHICH SUBMITTED INFORMATION ON THE QUESTION OF DISCRIMINATION AGAINST ROMA

States parties

Belarus, Colombia, Cyprus, Czech Republic, Finland, Germany, Lithuania, Norway, Poland, Slovakia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland.

Intergovernmental organizations

Council of Europe, Organization for Security and Cooperation in Europe (OSCE)

Annex IX

NON-GOVERNMENTAL ORGANIZATIONS WHICH TOOK PART IN THE INFORMAL MEETING WITH THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION ON THE QUESTION OF DISCRIMINATION AGAINST ROMA

Save the Children (United Kingdom), Roma Center for Public Policies (Romania), International Movement against Discrimination and Racism (Switzerland), Romani CRISS (Romania), European Roma Rights Center (Budapest), Minority Rights Group International (United Kingdom), Society for Threatened Peoples (Germany), Romani Union (Croatia), Medecins du monde (France), Roma-Lom Foundation (Bulgaria), Greek Helsinki Monitor (Greece).

Annex X

COMMENTS OF THE GOVERNMENT OF AUSTRALIA ON THE CONCLUDING OBSERVATIONS[a] ADOPTED BY THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION ON THE TENTH, ELEVENTH AND TWELFTH PERIODIC REPORTS OF AUSTRALIA

The Australian Government has carefully considered the Committee's concluding observations on Australia's tenth, eleventh and twelfth periodic reports issued on 24 March 2000. While noting some positive commentary, the overall thrust is unduly negative. The Australian Government rejects these comments. It approached the CERD meeting in good faith and sent a high-level delegation, led by the Minister for Immigration and Multicultural Affairs and Minister Assisting the Prime Minister for Reconciliation, the Hon. Phillip Ruddock MP. Australia provided extensive written and oral information in order to engage constructively with the Committee.

The Australian Government is very disappointed that the Committee's concluding observations ignored the progress Australia has made in addressing indigenous issues, gave undue weight to NGO submissions, and strayed from its legitimate mandate. The Australian Government is also deeply concerned about the lack of consideration the Committee accorded to its views, and to its outstanding record of commitment to international human rights obligations.

Following the issue of the Committee's concluding observations, the Government in March 2000 initiated a review of its engagement with United Nations treaty bodies, which will involve, inter alia, consideration of the working procedures of CERD. The Government will announce the conclusions of the review in due course.

---

[a] See paragraphs 24-43 of the present report.

00-69461 (E) 171000